

CHAPTER TEXT:

LAWS OF NEW YORK, 2003

CHAPTER 122

AN ACT to amend the public authorities law and the tax law, in relation to creating the Buffalo fiscal stability authority

Became a law July 3, 2003, with the approval of the Governor. Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

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

Section 1. Legislative findings. The legislature hereby finds and declares that a condition of fiscal difficulty has existed for several years in the city of Buffalo, as a result of a weakened economy, population declines, and job losses. In recent months, the city's fiscal condition has been further weakened by the impact of the national economic recession, which has had a greater negative impact in Buffalo than in many other areas of the state. These factors have led to a structural imbalance between revenues and expenditures which, when combined with the city's limited ability to increase taxes on its residents, has resulted in a downgrade of Buffalo's bonds by independent bond rating services.

It is hereby found and declared that the city is in a state of fiscal crisis, and that the welfare of the inhabitants of the city is seriously threatened. The city budget must be balanced and economic recovery enhanced. Actions should be undertaken which preserve essential services to city residents, while also ensuring that taxes remain affordable. Actions contrary to these two essential goals jeopardize the city's long-term fiscal health and impede economic growth for the city, the region, and the state.

It is, therefore, further found and declared that a combination of enhanced budgetary discipline and short-term budgetary relief is necessary to assist the city in returning to fiscal and economic stability, while ensuring adequate funding for the provision of essential services and for the maintenance, expansion, and rebuilding of the infrastructure of the city. If the city financial plan incorporates the annual targets required by this act for recurring cost-saving measures, the Buffalo fiscal stability authority shall make savings available to the city through a restructuring of a portion of the city's outstanding debt, and/or through limited borrowing for operating costs, in either case, secured by an intercept of sales tax net collections as well as state aid.

It is hereby further found and declared that a control and advisory finance authority should be established to oversee the city's budget, financial and capital plans; to issue bonds, notes or other obligations to achieve budgetary savings through debt restructuring; to finance short-term cash flow or capital needs; and, if necessary, to develop financial plans on behalf of the city if the city is unwilling or unable to take the required steps toward fiscal stability.

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

CHAP. 122

2

Based upon the fiscal crisis in the city of Buffalo, the legislature through this act creates a Buffalo fiscal stability authority with certain control, advisory and borrowing powers, and imposes on the city of Buffalo certain requirements as to budgetary operations and fiscal management, including minimum annual requirements to produce recurring budget savings in increasing amounts over the next four years. The agreements for financial and budgetary discipline between the authority and the city shall be for such period as is necessary under the standards set forth in this act to restore the city of Buffalo to fiscal integrity, with a control or advisory role for the authority continuing until June 30, 2037.

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

TITLE 2

BUFFALO FISCAL STABILITY AUTHORITY

Section 3850. Short title.

3850-a. Legislative declaration of need for state intervention.

3851. Definitions.

3852. Buffalo fiscal stability authority.

3853. Administration of the authority.

3854. General powers of the authority.

3855. Assistance to the authority; employees of the authority.

3856. City fiscal year two thousand three--two thousand four budget modification and four-year financial plan.

3857. City financial plans.

3858. Control period.

3859. Advisory period.

3860. Additional provisions.

3861. Declaration of need for financing assistance to the city.

3862. Bonds, notes or other obligations of the authority.

3863. Remedies of bondholders.

3864. Intercept of city tax revenues and state aid revenues.

3865. Resources of the authority.

3866. Agreement with the state.

3867. Agreement with the city.

3868. Bonds, notes or other obligations legal for investment and deposit.

3869. Tax exemption.

3870. Actions against the authority.

3871. Audits.

3872. Effect of inconsistent provisions.

3873. Separability; construction.

§ 3850. Short title. This title shall be known and may be cited as the "Buffalo fiscal stability authority act."

§ 3850-a. Legislative declaration of need for state intervention. The legislature hereby finds and declares that the city of Buffalo is facing a severe fiscal crisis, and that the crisis cannot be resolved absent assistance from the state. The legislature finds that the city has repeatedly relied on annual extraordinary increases in state aid to balance its budget, and that the state cannot continue to take such extraordinary actions on the city's behalf. The legislature further finds and declares that maintenance of a balanced budget by the city of Buffalo is a matter of overriding state concern, requiring the legislature to intervene to provide a means whereby: the long-term fiscal stability of the city will be assured, the confidence of investors in

the city's bonds and notes is preserved, and the economy of both the region and the state as a whole is protected.

§ 3851. Definitions. For the purposes of this title, unless the context otherwise requires: 1. "Advisory period" means that period no earlier than July first, two thousand six, after which the authority has determined that (a) for each of the three immediately preceding city fiscal years, the city has adopted and adhered to budgets covering all expenditures, other than capital items, the results of which did not show a deficit, without the use of any authority assistance, as provided for under section thirty-eight hundred fifty-seven of this title, when reported in accordance with generally accepted accounting principles and (b) the comptroller and the state comptroller jointly certify that securities were sold by the city during the immediately preceding city fiscal year in the general public market and that there is a substantial likelihood that such securities can be sold by the city in the general public market from such date through the end of the next succeeding city fiscal year in amounts that will satisfy substantially all of the capital and cash flow requirements of the city during that period in accordance with the financial plan then in existence. The joint certification made by the comptroller and the state comptroller shall be based on their separate written determinations which may take into account a report and opinion of an independent expert in the marketing of securities selected by the authority as well as other information available to the comptrollers. Once begun, an advisory period shall continue through June thirtieth, two thousand thirty-seven unless a control period is imposed.

2. "Authority" or "Buffalo fiscal stability authority" or "BFSA" means the public benefit corporation created by this title.

3. "BFSA assistance" means: (a) the amount of debt service savings in a given city fiscal year generated from the proceeds of bonds, notes or other obligations made available to or for the benefit of the city or any covered organization as determined by the authority; or (b) the proceeds of any deficit financing authorized by the authority, or some combination thereof pursuant to the provisions of section thirty-eight hundred fifty-seven of this title. Such assistance shall be made available only upon a declaration of need by the city pursuant to section thirty-eight hundred sixty-one of this title and the approval of the BFSA board.

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

5. "Chief fiscal officer" means the chief fiscal officer of the city as defined in section 2.00 of the local finance law.

6. "City" means the city of Buffalo.

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

8. "City tax revenues" means the portion of the county's "net collections", as defined in section twelve hundred sixty-two of the tax law, payable to the city under the agreement among the county, the city and the cities of Lackawanna and Tonawanda entered into pursuant to the authority of subdivision (c) of section twelve hundred sixty-two of the tax law. In the event that the city imposes sales and compensating use taxes pursuant to the authority of section twelve hundred ten of the tax law, "city tax revenues" shall also include net collections from such city taxes.

9. "Comptroller" means the comptroller of the city.

CHAP. 122

4

10. "Control period" means that period of time from the effective date of this title, continuing until the authority determines that conditions have been met as provided in subdivision one of this section and the city qualifies for the onset of an advisory period. A control period may be reimposed as determined by the authority in accordance with section thirty-eight hundred fifty-eight of this title.

11. "Council" means the city council of the city of Buffalo.

12. "County" means the county of Erie.

13. "Covered organization" means the city school district, the joint schools construction board of the city, as described in chapter six hundred five of the laws of two thousand, as amended, and the Buffalo municipal housing authority and any governmental agency, public authority or public benefit corporation which receives or may receive moneys directly, indirectly or contingently from the city, but excluding the authority and (a) any other governmental agency, public authority or public benefit corporation specifically exempted from the provisions of this title by order of the authority upon application of such agency, public authority, or corporation to the authority or on the authority's own motion upon a finding by the authority that such exemption does not materially affect the ability of the city to adopt and maintain a budget pursuant to the provisions of this title, or (b) any state public authority defined in section two hundred one of the civil service law, unless specifically named above; provided, however, that the authority may terminate any exemption granted by order of the authority pursuant to this subdivision upon a determination that the circumstances upon which such exemption was granted are no longer applicable.

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

15. "Financeable costs" or "costs" means costs to finance (a) amounts necessary to accomplish a refunding, repayment or restructuring of a portion of the city's outstanding indebtedness or that of any covered organization, (b) cash flow needs of the city or any covered organization, (c) any object or purpose of the city or any covered organization, for which a period of probable usefulness is prescribed in section 11.00 of the local finance law, including the costs of any preliminary studies, surveys, maps, plans, estimates and hearings, (d) amounts necessary to finance a portion of the operating costs of the city or any covered organization as provided in section thirty-eight hundred fifty-seven of this title, to the extent approved by the authority, or (e) incidental costs, including, but not limited to, legal fees, printing or engraving, publication of notices, taking of title, apportionment of costs, and capitalized interest, insurance premiums, costs related to items authorized in subdivisions seven through nine of section thirty-eight hundred fifty-four of this title or any underwriting or other costs incurred in connection with the financing thereof; provided however that, to the maximum extent practicable, all financeable costs shall not adversely affect the requirements of subdivision two of section thirty-eight hundred sixty-nine of this title.

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

17. "Major operating funds" means the city general fund, the board of education general fund, the city enterprise funds, the board of education special project funds, together with any other funds of the city or a covered organization from time to time designated by the authority.

18. "Mayor" means the mayor of the city.

19. "Presiding officer" means the presiding officer of the council elected pursuant to the rules of the council.

20. "Projected gap" means the excess, if any, of annual aggregate projected expenditures over annual aggregate projected revenues for the major operating funds in each year of a financial plan as determined by the city and certified by the authority. For purposes of determining the projected gap in each fiscal year, annual aggregate projected revenues shall not include the amount of BFSFA assistance expected to be available for such fiscal year.

21. "Revenues" means revenues of the authority consisting of city tax revenues, state aid revenues, and all other aid, rents, fees, charges, payments and other income and receipts paid or payable to the authority or a trustee for the account of the authority to the extent such amounts are pledged to bondholders.

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

23. "State aid" means: all general purpose local government aid; emergency financial assistance to certain cities; emergency financial assistance to eligible municipalities; supplemental municipal aid; and any successor type of aid and any new aid appropriated by the state as local government assistance for the benefit of the city.

24. "State aid revenues" means state aid paid by the state comptroller to the authority pursuant to this title.

25. "State comptroller" means the comptroller of the state.

§ 3852. Buffalo fiscal stability authority. 1. There is hereby created the Buffalo fiscal stability authority. The authority shall be a corporate governmental agency and instrumentality of the state constituting a public benefit corporation.

2. The authority shall conduct meetings as often as deemed necessary to accomplish its purposes, but not less than quarterly during a control period, and annually during an advisory period.

3. The authority shall continue until its control, advisory or other responsibilities, and its liabilities have been met or otherwise discharged, which in no event shall be later than June thirtieth, two thousand thirty-seven. Upon the termination of the authority, all of its property and assets shall pass to and be vested in the city.

§ 3853. Administration of the authority. 1. The authority shall be administered by nine directors, seven of which shall be appointed by the governor. Of the seven directors, one such director shall be a resident of the city of Buffalo; one such director shall be appointed following the recommendation of the state comptroller; and one such director shall be appointed on the joint recommendation of the temporary president of the senate and the speaker of the assembly. The mayor and the county executive shall serve as ex officio members. Every director, who is otherwise an elected official of the city or county, shall be entitled to designate a single representative to attend, in his or her place, meetings of the authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the city of Buffalo. Written notice of such designation shall be furnished prior to any participation by the single designee. Such single designee shall serve at the pleasure of the representative, and shall not be authorized to delegate any of his or her duties or functions to another person. Each director appointed by the governor shall be appointed for a term of four years, provided however, that four of the directors first appointed by the governor, including the director appointed following the recommendation of the state comptroller shall serve for a term ending June thirtieth, two thousand seven, and the remaining three directors first

appointed by the governor including the director appointed on the joint recommendation of the temporary president of the senate and the speaker of the assembly and shall serve for a term ending June thirtieth, two thousand nine. Each director shall hold office until his or her successor has been appointed and qualified. Thereafter, each director shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of his or her predecessor's term.

2. The governor shall designate a chairperson and a vice-chairperson from among the directors. The chairperson shall preside over all meetings of the directors and shall have such other duties as the directors may prescribe. The vice-chairperson shall preside over all meetings of the directors in the absence of the chairperson and shall have such other duties as the directors may prescribe.

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

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

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

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

7. At least annually, commencing no more than one year after the date on which authority bonds, notes or other obligations are first issued, the authority shall report to the council, comptroller, the director of the budget, and the state comptroller on the amount of financing and the cost savings for the city over the past year.

8. The authority shall cease to exist on June thirtieth, two thousand thirty-seven.

§ 3854. General powers of the authority. Except as otherwise limited by this title, the authority shall have the following powers in addition to those specially conferred elsewhere in this title, subject only to agreements with bondholders:

1. to sue and be sued;
2. to have a seal and alter the same at pleasure;
3. to make and alter by-laws for its organization and management and subject to agreements with its bondholders, to make and alter rules and regulations governing the exercise of its powers and fulfillment of its purposes under this title;
4. to make and execute contracts and all other instruments or agreements necessary or convenient to carry out any powers and functions expressly given in this title;

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

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

7. as security for the payment of the principal of and interest on any bonds, notes or other obligations issued by it pursuant to this title and any agreements made in connection therewith and for its obligations under bond facilities, to pledge all or any part of its revenues or assets;

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

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

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

11. subject to the provisions of any contract with bondholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) certificates of deposit, whether negotiable or non-negotiable, and banker's acceptances of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding unsecured, uninsured and unguaranteed debt issue ranked by two nationally recognized independent rating agencies at a rating category that is no lower than the then current rating of the authority's bonds, notes or other obligations, (d) commercial paper of any bank or corporation created under the laws of either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies, (e) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage corporation, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies, (f) any bonds or other obligations of any state or the United States of America or of any political subdivision thereof or any agency, instru-

CHAP. 122

8

mentality or local governmental unit of any such state or political subdivision which bonds or other obligations, at the time of the investment have received any of the three highest ratings of two nationally recognized independent rating agencies, (g) any repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision, which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian, and (h) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of the state or any national banking association domiciled in the state, as custodian.

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

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

§ 3855. Assistance to the authority; employees of the authority. 1. With the consent of any public corporation, the authority may use agents, employees and facilities thereof, paying to such public corporation its agreed proportion of the compensation or costs.

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

§ 3856. City fiscal year two thousand three--two thousand four budget modification and four-year financial plan. 1. Not later than September first, two thousand three, the city shall submit to the authority a financial plan which may reflect a declaration of need as provided for

in section thirty-eight hundred sixty-one. The plan shall cover the city's two thousand three--two thousand four fiscal year and the three subsequent fiscal years.

2. Not later than fifteen days after such submission, the authority shall approve or disapprove the financial plan.

3. In the event the authority shall disapprove such financial plan based on disapproval of certain actions or assumptions, the authority shall promptly thereafter notify the city of its reasons. Within fifteen days from the receipt of such notification the city shall modify the financial plan, and unless such financial plan modification is approved by the authority, the authority shall impose a financial plan of its own formulation as soon as practicable, as provided for in section thirty-eight hundred fifty-eight of this title.

§ 3857. City financial plans. 1. Commencing with the city's two thousand four--two thousand five fiscal year, the mayor shall prepare and submit to the authority a four-year financial plan, and the mayor's proposed city budget, not later than the date required for submission of such budget to the council pursuant to the city charter. Such financial plan shall, in addition to the requirements for financial plans set forth in subdivisions two and three of this section, contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. For purposes of determining operating revenues in the fiscal years ending June thirtieth, two thousand four through two thousand seven, such plan may assume receipt by the city of BFSFA assistance in the following collective amounts for each respective fiscal year:

Amount	Fiscal Year Ending
2004 amount	2004
2005 amount	2005
2006 amount	2006
2007 amount	2007

As used in this subdivision:

"2004 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between thirty-five per centum and forty per centum of the projected gap.

"2005 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between forty-five per centum and fifty per centum of the projected gap.

"2006 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between sixty per centum and sixty-five per centum of the projected gap.

"2007 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between eighty per centum and eighty-five per centum of the projected gap.

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

CHAP. 122

10

(a) The mayor shall submit to the authority a certificate stating that the budget submitted to the authority is consistent with the financial plan submitted therewith and that operation within the budget is feasible.

(a-1) Prior to the approval or disapproval of the financial plan of the city by the authority, the authority shall request community, educational or other entity or entities to seek public input and comment relating to the city's and/or any covered organization's financial plan. Such community, educational or other entity or entities shall report to the authority on such public input and comment ten days after the city has submitted the financial plan to the authority.

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

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

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

(e) The authority shall, in the event it disagrees with elements of the financial plan provided pursuant to paragraph (c) or (f) of this subdivision, or section thirty-eight hundred fifty-six of this title, provide notice thereof to the city, with copies to the director of the budget, the state comptroller, the chair of the assembly ways and means committee and the chair of the senate finance committee, if, in the judgment of the authority, such plan: (i) is incomplete; (ii) fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimations; (iii) fails to provide that operations of the city and the covered organizations will be conducted within the cash resources available; or (iv) fails to comply with the provisions of this title or other requirements of law.

(f) After the initial adoption of an approved financial plan, the revenue estimates certified by the authority and the financial plan shall be regularly reexamined by the authority in consultation with the city and the covered organizations and the mayor shall provide a modified financial plan in such detail and within such time periods as the authority may require. In the event of reductions in such revenue estimates, or in the event the city or a covered organization shall expend funds at a rate that would exceed the aggregate expenditure limitation for the city or covered organization prior to the expiration of the fiscal year, the mayor shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total

expenditures as may be necessary to conform to such revised revenue estimates or aggregate expenditure limitations.

(g) If, within a time period specified by the authority, the city fails to make such modifications after reductions in revenue estimates, or to provide a modified plan in detail and within such time period required by the authority, the authority shall adopt a resolution so finding and shall, as soon as practicable thereafter, formulate and adopt a financial plan to be effective until the authority approves a financial plan submitted by the city. All budgets and operations of the city or a covered organization shall be in conformance and compliance with the financial plan then in effect.

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

3. The financial plan shall be in such form and shall contain such information for each year during which the financial plan is in effect as the authority may specify, and shall include the city and all the covered organizations, and shall, in such detail as the authority from time to time may prescribe, include statements of all estimated revenues and of all expenditures and cash flow projections of the city and each covered organization.

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

CHAP. 122

12

fiscal year occurring during a control or advisory period or while bonds, notes or other obligations issued pursuant to this title are outstanding, the mayor shall submit a proposed budget or revision there-to to the authority concurrent with submission to the council, and shall submit the adopted budget to the authority immediately upon its adoption.

5. For each financial plan and financial plan modification to be prepared and submitted by the mayor to the authority pursuant to the provisions of this section, the covered organizations shall submit to the city such information with respect to their projected expenditures, revenues and cash flows for each of the years covered by such financial plan or modification as the mayor shall determine.

§ 3858. Control period. 1. A control period shall begin as of the effective date of this title and may be reimposed during an advisory period if the authority determines at any time that a fiscal crisis is imminent or that any of the following events has occurred or that there is a substantial likelihood and imminence of such occurrence: (a) the city shall have failed to adopt a balanced budget, financial plan or budget modification as required by sections thirty-eight hundred fifty-six and thirty-eight hundred fifty-seven of this title, (b) the city shall have failed to pay the principal of or interest on any of its bonds or notes when due, (c) the city shall have incurred an operating deficit of one percent or more in the aggregate results of operations of any major fund of the city or a covered organization during its fiscal year assuming all revenues and expenditures are reported in accordance with generally accepted accounting principles, subject to the provisions of this title, (d) the chief fiscal officer's certification at any time, at the request of the authority or on the chief fiscal officer's initiative, which certification shall be made from time to time as promptly as circumstances warrant and reported to the authority, that on the basis of facts existing at such time such officer could not make the certification described in subdivision one of section thirty-eight hundred fifty-one of this title, or (e) the city shall have violated any provision of this title. A control period shall terminate when the authority has determined that the city qualifies for the onset of an advisory period as provided under subdivision one of section thirty-eight hundred fifty-one of this title. After onset of an advisory period, the authority shall annually consider paragraphs (a) through (e) of this subdivision and determine whether, in its judgment, any of the events described in such paragraphs have occurred and the authority shall publish each such determination. Any certification made by the chief fiscal officer hereunder shall be based on such officer's written determination which shall take into account a report and opinion of an independent expert in the marketing of municipal securities selected by the authority, and the opinion of such expert and any other information taken into account shall be made public when delivered to the authority. Notwithstanding any part of the foregoing to the contrary, in no event shall any control period continue beyond June thirtieth, two thousand thirty-seven.

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

(a) shall approve or disapprove the financial plan and the financial plan modifications of the city, as provided in sections thirty-eight hundred fifty-six and thirty-eight hundred fifty-seven of this title, and shall formulate and adopt its own modifications to the financial

plan, as necessary; such modifications shall become effective upon their adoption by the authority;

(b) may set a maximum level of spending for any proposed budget of any covered organization;

(c) may impose a wage and/or hiring freeze: (i) During a control period, upon a finding by the authority that a wage and/or hiring freeze is essential to the adoption or maintenance of a city budget or a financial plan that is in compliance with this title, the authority shall be empowered to order that all increases in salary or wages of employees of the city and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards, now in existence or hereafter entered into, requiring such salary or wage increases as of any date thereafter are suspended. Such order may also provide that all increased payments for holiday and vacation differentials, shift differentials, salary adjustments according to plan and step-ups or increments for employees of the city and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards requiring such increased payments as of any date thereafter are, in the same manner, suspended. For the purposes of computing the pension base of retirement allowances, any suspended salary or wage increases and any other suspended payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable.

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

(iii) Notwithstanding the provisions of subparagraphs (i) and (ii) of this paragraph, no retroactive pay adjustments of any kind shall accrue or be deemed to accrue during the period of wage freeze, and no such additional amounts shall be paid at the time a wage freeze is lifted, or at any time thereafter.

(d) shall periodically evaluate the suspension of salary or wage increases or suspensions of other increased payments or benefits, and may, if it finds that the fiscal crisis, in the sole judgment of the authority has abated, terminate such suspensions;

(e) shall review and approve or disapprove any collective bargaining agreement to be entered into by the city or any covered organization, or purporting to bind, the city or any covered organization. Prior to entering into any collective bargaining agreement, the city or any covered organization shall submit a copy of such collective bargaining agreement to the authority, accompanied by an analysis of the projected costs of such agreement and a certification that execution of the agreement will be in accordance with the financial plan. Such submission

CHAP. 122

14

shall be in such form and include such additional information as the authority may prescribe. The authority shall promptly review the terms of such collective bargaining agreement and the supporting information in order to determine compliance with the financial plan, and shall disapprove any collective bargaining agreement which, in its judgment, would be inconsistent with the financial plan. No collective bargaining agreement binding, or purporting to bind, the city or any covered organization after the effective date of this title shall be valid and binding upon the city or any covered organization unless first approved by resolution of the authority.

(f) shall act jointly with the city in selecting members of any interest arbitration panel. Notwithstanding any other evidence presented by the city, the covered organization or any recognized employee organization, the arbitration panel must, prior to issuing any final decision, provide the authority with the opportunity to present evidence regarding the fiscal condition of the city;

(g) shall take any action necessary in order to implement the financial plan should the city or any covered organization have failed to comply with any material action necessary to fulfill the plan, provided, however, the authority shall provide seven (7) days notice of its determination that the city or any covered organization has not complied prior to taking any such action.

(h) may review and approve or disapprove contracts or other obligations binding or purporting to bind the city or any covered organization;

(i) shall, with respect to any proposed borrowing by or on behalf of the city or any covered organization on or after July first, two thousand three, review the terms of and comment, within thirty days after notification by the city or covered organization of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the city or covered organization and no such borrowing shall be made unless first reviewed, commented upon and approved by the authority. The authority shall comment within thirty days after notification by the city or covered organization of a proposed borrowing to the mayor, the comptroller, the council, the director of the budget and the state comptroller and indicate approval or disapproval of the proposed borrowing. Notwithstanding the foregoing, neither the city nor any covered organization shall be prohibited from issuing bonds or notes to pay outstanding bonds or notes; and, provided further, the first issuance of debt pursuant to chapter six hundred five of the laws of two thousand, as amended, shall be excluded from this requirement;

(j) may review the operation, management, efficiency and productivity of the city and any covered organizations as the authority may determine, and make reports thereon; examine the potential to enhance the revenue of the city or any covered organization; audit compliance with the financial plan in such areas as the authority may determine; recommend to the city and the covered organizations such measures relating to their operations, management, efficiency and productivity as the authority deems appropriate to reduce costs, enhance revenue, and improve services so as to advance the purposes of this title;

(k) may require the city to undertake certain actions to advance serious and in-depth exploration of a merger of services with the county, including identification and analysis of options; development of a detailed fiscal and programmatic plan; identification of city, county, and state impediments; and fostering of informed public debate;

(l) may review and approve or disapprove the terms of any proposed settlement of claims against the city or any covered organization in excess of fifty thousand dollars;

(m) may obtain from the city, the covered organizations, comptroller, and the state comptroller, as appropriate, all information required pursuant to this section, and such other financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the city and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title;

(n) may perform such audits and reviews of the city and any agency thereof and any covered organizations as it deems necessary; and

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

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

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

(c) In addition to any penalty or liability under any other law, any officer or employee of the city or any of the covered organizations who shall violate paragraph (a) or (b) of this subdivision shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by order of either the governor or the mayor; and any officer or employees of the city or any of the covered organizations who shall knowingly and willfully violate paragraph (a) or (b) of this subdivision shall, upon conviction, be guilty of a misdemeanor.

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

§ 3859. Advisory period. 1. During any advisory period the authority shall:

CHAP. 122

16

(a) obtain from the city, the covered organizations and the state comptroller, all information, financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title; and inspect, copy and audit such books and records of the city and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title;

(b) review the operation, management, efficiency and productivity of city operations and of any covered organization's operations as the authority may determine, and make reports and recommendations thereon; examine the potential to enhance the revenue of the city or any covered organization; audit compliance with the financial plan in such areas as the authority may determine; recommend to the city and the covered organizations such measures relating to their operations, management, efficiency and productivity as the authority deems appropriate to reduce costs, enhance revenue and improve services so as to advance the purposes of this title;

(c) comment on the provisions of the budget, the financial plan and the financial plan modifications of the city as the authority deems necessary or appropriate;

(d) review and comment on the terms of any proposed borrowing, including the prudence of each proposed issuance of bonds or notes to be issued by the city; and

(e) assess the impact of any collective bargaining agreement to be entered into by the city and such contracts, that, in the judgment of the authority, may have a significant impact on the city's long-term fiscal condition.

2. During any advisory period, the city shall promptly provide all information requested by the authority, review the comments, assessments, reports and recommendations of the authority and publicly respond thereto, addressing such matters as have been raised by the authority.

§ 3860. Additional provisions. 1. Notwithstanding any provision to the contrary in title six-A of article two of the local finance law, neither the city nor any covered organization shall file any petition authorized by such title six-A without the approval of the authority and the state comptroller. No such petition shall be filed as long as any bonds, notes or other obligations issued by the authority remain outstanding. Failure of the authority or the state comptroller to notify the city or a covered organization within thirty days (or such additional time, not exceeding thirty days, as the authority or state comptroller shall have notified the city or covered organization that it requires to complete its review) after submission to it of a petition shall be deemed to constitute authority or state comptroller approval thereof.

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

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

4. The authority's fiscal year shall be July first through June thirtieth.

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

§ 3861. Declaration of need for financing assistance to the city. 1. The city shall determine and declare whether it requests the authority to undertake a financing of costs. Any such request shall be made by and through the mayor after approval by the council. Any such financing shall be consistent with the adopted budget and financial plan of the city required under sections thirty-eight hundred fifty-six and thirty-eight hundred fifty-seven of this title, as applicable.

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

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

4. Such agreements with the city shall (a) describe the particular financeable costs to be financed in whole or in part by the authority, (b) describe the plan for the financing of the costs, (c) set forth the method by which and by whom and the terms and conditions upon which money provided by the authority shall be disbursed to the city, (d) where appropriate, provide for the payment of such costs by the city under such contracts as shall be awarded by the city or for the city to make a capital contribution of such proceeds as city funds to another entity for the payment or reimbursement of such costs, and (e) require every contract entered into by the city, or another entity receiving funds from the city, for costs to be financed in whole or in part by the authority to be subject to the provisions of the city charter and other applicable laws governing contracts of the city or such entity, as the case may be.

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

§ 3862. Bonds, notes or other obligations of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds, notes or other obligations in such principal amounts as it may determine to be necessary pursuant to section thirty-

eight hundred sixty-one of this title to pay any financeable costs and to fund reserves to secure such bonds, notes or other obligations, including incidental expenses in connection therewith; provided, however, the aggregate principal amounts of such bonds, notes or other obligations outstanding at any one time shall not exceed one hundred seventy-five million dollars, and such bonds shall be tax exempt to the maximum extent practicable, as provided by section thirty-eight hundred sixty-nine of this title. Bonds, notes or other obligations issued by the authority to (a) pay reasonable costs of issuance, as determined by the authority, (b) establish debt service reserve funds, or (c) refund or advance refund any outstanding bonds or notes of the city or the authority shall not count against the above limit on outstanding bonds, notes or other obligations of the authority, nor shall any accretion of principal of bonds that would constitute interest under the Internal Revenue Code of 1986, as amended, count against such limit.

2. The authority may issue bonds, notes or other obligations to refund bonds, notes or other obligations previously issued, but in no event shall the final maturity of any bonds, notes or other obligations of the authority be later than June thirtieth, two thousand thirty-seven. No bond of the authority shall mature more than thirty years from the date of its issue, or after June thirtieth, two thousand thirty-seven, whichever date is earlier.

3. Bonds, notes or other obligations of the authority may be issued, amortized, redeemed and refunded without regard to the provisions of the local finance law.

4. The directors may delegate to the chairperson or other director or officer of the authority the power to set the financial terms of bonds, notes or other obligations.

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

6. Any resolution or resolutions authorizing bonds, notes or other obligations or any issue of bonds, notes or other obligations may contain provisions which may be a part of the contract with the holders of the bonds, notes or other obligations thereby authorized as to: (a) pledging all or part of the authority's revenues, together with any other moneys, securities or contracts, to secure the payment of the bonds, notes or other obligations, subject to such agreements with bondholders as may then exist; (b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof; (c) limitations on the purposes to which the proceeds from the sale of bonds, notes or other obligations may be applied; (d) limitations on the issuance of additional bonds, notes or other obligations, the terms upon which additional bonds, notes or other obligations may be issued and secured and the refunding of bonds, notes or other obligations; (e) the

procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given; (f) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section thirty-eight hundred sixty-three of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee; and (g) defining the acts or omissions of the authority to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such acts or omissions of the authority to act which may constitute a default and such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title.

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

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

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

10. Neither the directors of the authority nor any person executing bonds, notes or other obligations shall be liable personally thereon or be subject to any personal liability or accountability solely by reason of the issuance thereof. The bonds, notes or other obligations of the authority shall not be a debt of either the state or the city, and neither the state nor the city shall be liable thereon, nor shall they

CHAP. 122

20

be payable out of any funds other than those of the authority; and such bonds, notes or other obligations shall contain on the face thereof a statement to such effect.

11. The authority, subject to such agreements with bondholders as then may exist, shall have power to purchase bonds, notes or other obligations of the authority out of any moneys available therefor, which shall thereupon be canceled.

§ 3863. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to paragraph (f) of subdivision six of section thirty-eight hundred sixty-two of this title:

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

2. Such trustee may, and upon written request of the holders of at least twenty-five per centum in principal amount of such bonds, notes or other obligations outstanding shall, in his or her or its own name: (a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders and require the authority to carry out any other agreements with the holders of such bonds, notes or other obligations and to perform its duties under this title; (b) bring an action or proceeding upon such bonds, notes or other obligations; (c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holder of such bonds, notes or other obligations; and (d) by action or proceeding, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds, notes or other obligations.

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

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

§ 3864. Intercept of city tax revenues and state aid revenues. 1. The state comptroller, in accordance with section twelve hundred sixty-one of the tax law, shall pay at least monthly to the authority, for the period beginning upon the effective date of this title through June thirtieth, two thousand thirty-seven, the city tax revenues from the county's taxes imposed pursuant to the authority of section twelve hundred ten of the tax law. During such period, the county shall impose such taxes at a rate of no less than three percent. In addition, during such period, the state comptroller shall make such payments of city tax revenues to the authority pursuant to the then current agreement under subdivision (c) of section twelve hundred sixty-two of the tax law among the county and the cities in the county; provided however, in the event that such agreement shall have expired or been terminated during such period, notwithstanding any other provision of general, special or local

law to the contrary, the state comptroller shall make such payments pursuant to the provisions of paragraph two of subdivision (d) of section twelve hundred sixty-two of the tax law.

2. Commencing on the effective date of this title, and until June thirtieth, two thousand thirty-seven, the state comptroller shall pay state aid revenues to the authority.

3. The city shall have no right, title, or interest in the city tax revenues or state aid revenues paid to the authority pursuant to this section.

§ 3865. Resources of the authority. 1. Subject to the provisions of this title, the directors of the authority shall receive, accept, invest, administer, expend and disburse for its corporate purposes all money of the authority from whatever sources derived including (a) city tax revenues; (b) state aid revenues; (c) the proceeds of bonds, notes or other obligations; and (d) any other payments, gifts or appropriations to the authority from any other source.

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

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

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

5. Revenues of the authority shall be applied in the following order of priority: first to pay debt service on the authority's bonds, notes, or other obligations; then to pay the authority's operating expenses not otherwise provided for; and then, subject to the authority's agreements with the city, to transfer the balance of revenues not required to meet contractual or other obligations of the authority to the city as frequently as practicable.

CHAP. 122

22

6. (a) Any such payment of state aid revenues to the authority shall not obligate the state to make available, nor entitle the city to receive, any additional state aid.

(b) Nothing contained in this title shall be construed to create a debt of the state within the meaning of any constitutional or statutory provisions. Any provision with respect to state aid or state aid revenues shall be deemed executory only to the extent of moneys available, and no liability shall be incurred by the state beyond the moneys available for that purpose, and any such payment by the comptroller of state aid revenues is subject to annual appropriation of state aid by the state legislature.

(c) Nothing contained in this title shall be deemed to restrict the right of the state to amend, repeal, modify, or otherwise alter section fifty-four of the state finance law or any provision relating to state aid to municipalities. The authority shall include within any resolution, contract, or agreement with holders of its bonds, notes or other obligations a provision which states that no default occurs as a result of the state's exercising its right to amend, repeal, modify, or otherwise alter section fifty-four of the state finance law or any other provision relating to state aid to municipalities.

§ 3866. Agreement with the state. 1. The state does hereby pledge to and agree with the holders of any issue of bonds, notes or other obligations issued by the authority pursuant to this title and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations for so long as such bonds, notes or other obligations are outstanding and until all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds, notes or other obligations. Nothing contained in this title shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter: (a) section fifty-four of the state finance law or any other provision relating to state aid, or (b) statutes imposing or relating to taxes or fees, or appropriations relating thereto.

2. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter: (a) section fifty-four of the state finance law or any other provision relating to state aid or (b) such taxes, fees, or appropriations. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 3867. Agreement with the city. The city hereby covenants and agrees with the holders of bonds, notes or other obligations issued by the authority pursuant to this title, that the city will not take actions which limit, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations while such bonds, notes or other obligations are outstanding.

§ 3868. Bonds, notes or other obligations legal for investment and deposit. The bonds, notes or other obligations of the authority are hereby made securities in which all public officers and bodies of the

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

§ 3869. Tax exemption. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes are in all respects for the benefit of the people of the state of New York and are public purposes. Accordingly, the authority shall be regarded as performing an essential governmental function in the exercise of the powers conferred upon it by this title. The authority shall not be required to pay any fees, taxes, special ad valorem levies or assessments of any kind, whether state or local, including, but not limited to, fees, taxes, special ad valorem levies or assessments on real property, franchise taxes, sales taxes or other taxes, upon income or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds, notes or other obligations issued pursuant to this title, and the income therefrom shall, to the maximum extent practicable, be exempt from taxation.

§ 3870. Actions against the authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any director, officer, agent or employee thereof, unless (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

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

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

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

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

(b) In connection with any such claim, demand, suit, or judgment, any director, officer or employee of the authority shall be entitled to representation by private counsel of his or her choice in any civil judicial proceeding whenever the attorney general determines based upon his or her investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the state comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is

entitled to representation under the terms and conditions of this section by the authority, upon the audit and warrant of the state comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers, or employees of and representatives to the authority by section seventeen of the public officers law, by action of the authority or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of the authority, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 3871. Audits. 1. The accounts of the authority shall be subject to the audit of the comptroller and the state comptroller. In addition, the authority shall be subject to an annual financial audit performed by an independent certified accountant selected by the authority. Such audit report shall be submitted to the city, the presiding officer, the comptroller, the governor, the state comptroller, the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee.

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

§ 3872. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

§ 3873. Separability; construction. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered. The provisions of this title shall be liberally construed to assist the effectuation of the public purposes furthered hereby.

§ 3. Subdivision (a) of section 1261 of the tax law, as separately amended by chapter 84 and section 2 of part A of chapter 88 of the laws of 2000, is amended to read as follows:

(a) All taxes, penalties and interest imposed by cities, counties or school districts under the authority of section twelve hundred ten, twelve hundred eleven, twelve hundred twelve or twelve hundred twelve-A of this article, which are collected by the commissioner, shall be deposited daily with such responsible banks, banking houses or trust companies, as may be designated by the state comptroller, to the credit of the comptroller, in trust for the cities, counties or school districts imposing the tax or for the Nassau county interim finance authority or the Buffalo fiscal stability authority created by the public authorities law, to the extent that net collections from taxes imposed by Nassau county are payable to ~~such~~ the Nassau county interim finance authority or to the extent that net collections from taxes imposed by Erie county are payable to the Buffalo fiscal stability authority, or for any public benefit corporation to which the tax may be payable pursuant to law. Such deposits and deposits received pursuant to

CHAP. 122

26

subdivision (b) of section twelve hundred fifty-two of this article shall be kept in trust and separate and apart from all other monies in the possession of the comptroller. The comptroller shall require adequate security from all such depositories of such revenue collected by the commissioner, including the deposits received pursuant to subdivision (b) of section twelve hundred fifty-two of this article. Any amount payable to such ~~[authority]~~ authorities pursuant to the public authorities law shall, at the time it is otherwise payable to Nassau county or Erie county, respectively, as specified in this section, be paid instead to such respective authority. Any amount payable to a public benefit corporation pursuant to law shall, at the time it is otherwise payable to the taxing jurisdiction as specified in this section, be paid instead to such public benefit corporation.

§ 4. Subdivision (c) of section 1261 of the tax law, as amended by chapter 84 of the laws of 2000, is amended to read as follows:

(c) The comptroller, after reserving such refund fund and such costs shall, on or before the twelfth day of each month pay to the appropriate fiscal officers of the foregoing taxing jurisdictions the taxes, penalties and interest imposed by such jurisdictions under the authority of sections twelve hundred ten through twelve hundred twelve-A, collected by the commissioner pursuant to this article during the next preceding calendar month, provided, however, that the comptroller shall on or before the last day of June and December make a partial payment consisting of the collections made during and including the first twenty-five days of said months to said fiscal officers of the foregoing taxing jurisdictions. However, the taxes, penalties and interest from the additional one percent rate which the city of Yonkers is authorized to impose pursuant to section twelve hundred ten, after the comptroller has reserved such refund fund and such cost shall be paid to the special sales and compensating use tax fund for the city of Yonkers established by section ninety-two-f of the state finance law at the times set forth in the preceding sentence. However, the taxes, penalties and interest which the county of Nassau or the county of Erie is authorized to impose pursuant to section twelve hundred ten of this article, other than such taxes in the amounts described, respectively, in subdivisions one and two of section one thousand two hundred sixty-two-e of this article, during the period that such section authorizes Nassau county to establish special or local assistance programs thereunder, together with any penalties and interest related thereto, and after the comptroller has reserved such refund fund and such costs, shall, commencing on the next payment date after the effective date of this sentence and of each month thereafter, until such date as the Nassau county interim finance authority shall have no obligations outstanding, or the Buffalo fiscal stability authority shall cease to exist, be paid by the comptroller to the Nassau county interim finance authority to be applied by the Nassau county interim finance authority, or to the Buffalo fiscal stability authority to be applied by the Buffalo fiscal stability authority, as the case may be, in the following order of priority: first pursuant to the Nassau county interim finance authority's contracts with bondholders or the Buffalo fiscal stability authority's contracts with bondholders, respectively, then to pay the Nassau county interim finance authority's operating expenses not otherwise provided for or the Buffalo fiscal stability authority's operating expenses not otherwise provided for, respectively, and then pursuant to the Nassau county interim finance authority's agreements with the county of Nassau, which agreements shall require the Nassau county interim finance authority to transfer such

taxes, penalties and interest remaining after providing for contractual or other obligations of the Nassau county interim finance authority, and subject to any agreement between such authority and the county of Nassau, to the county of Nassau as frequently as practicable or the Buffalo fiscal stability authority's agreements with the city of Buffalo, which agreements shall require the Buffalo fiscal stability authority to transfer such taxes, penalties and interest remaining after providing for contractual or other obligations of the Buffalo fiscal stability authority, and subject to any agreement between such authority and the city of Buffalo, to the city of Buffalo as frequently as practicable. During the period that the comptroller is required to make payments to the Nassau county interim finance authority described in the previous sentence, the county of Nassau shall have no right, title or interest in or to such taxes, penalties and interest required to be paid to the Nassau county interim finance authority, except as provided in such authority's agreements with the county of Nassau. During the period that the comptroller is required to make payments to the Buffalo fiscal stability authority described in the second previous sentence, the city of Buffalo shall have no right, title or interest in or to such taxes, penalties and interest required to be paid to the Buffalo fiscal stability authority, except as provided in such authority's agreements with the city of Buffalo. The amount so payable shall be certified to the comptroller by the commissioner or the commissioner's delegate, who shall not be held liable for any inaccuracy in such certificate. Provided, however, any such certification may be based on such information as may be available to the commissioner at the time such certificate must be made under this section and may be estimated on the basis of percentages or other indices calculated from distributions for prior periods. Where the amount so paid over to any city, county, school district or the special sales and compensating use tax fund for the city of Yonkers in any such distribution or to such authority is more or less than the amount then due to such city, county, school district or such fund or to such authority, the amount of the overpayment or underpayment shall be certified to the comptroller by the commissioner or the commissioner's delegate, who shall not be held liable for any inaccuracy in such certificate. The amount of the overpayment or underpayment shall be so certified to the comptroller as soon after the discovery of the overpayment or underpayment as reasonably possible and subsequent payments and distributions by the comptroller to such city, county, school district or the special sales and compensating use tax fund for the city of Yonkers or to such authority shall be adjusted by subtracting the amount of any such overpayment from or by adding the amount of any such underpayment to such number of subsequent payments and distributions as the comptroller and the commissioner shall consider reasonable in view of the amount of the overpayment or underpayment and all other facts and circumstances.

§ 5. Subdivision (d) of section 1262 of the tax law, as amended by chapter 1190 of the laws of 1971, the opening paragraph as amended and the second undesignated paragraph as added by chapter 444 of the laws of 1996, and the closing paragraph as amended by chapter 678 of the laws of 1973, is amended to read as follows:

(d) (1) Where a county and a city therein both impose the same taxes described in sections twelve hundred two, twelve hundred three or twelve hundred ten, the county shall have power to impose or continue to impose such taxes on the area of the county outside such city up to the maximum rate authorized therefor. In such event, the portion of the net

CHAP. 122

28

collections received by the county by reason of its additional rate on such area, shall be allocated quarterly to the several cities and towns in such area on the basis of the ratio which the full valuation of real property in each city or town bears to the aggregate full valuation of real property in all of the cities and towns in such area provided, however, that, in such event, in Niagara county, such portion of net collections received by Niagara county shall be allocated quarterly to the several cities and towns in such area on the basis of the ratio which the population of each city or town bears to the aggregate population of all of the cities and towns in such area, such populations determined in accordance with the latest decennial federal census or special population census taken pursuant to section twenty of the general municipal law completed and published prior to the end of the quarter for which the allocation is made, which special census must include the entire area of the county. The amount allocated to each town shall be applied first to reduce county taxes levied upon real property in such town and any balance remaining shall be applied to reduce general town taxes levied upon real estate; provided, however, that any town or village other than any town or village within a county having a population of one million or more and containing not more than three towns, shall have power, in the manner provided in subdivision (c) of this section, to elect to receive a direct payment of the amounts which would be so applied to reduce county taxes and general town taxes levied upon real property in such town or village. Where any village has elected to be paid directly as provided in this subdivision, the amount to be paid to such village shall be determined by the ratio that the full valuation of real property in the village or portion thereof within the town in which such village is located bears to the full valuation of real property in the entire town. If a village wholly or partially within a town has so elected to be paid directly, but the town in which such village is located has not so elected, the amount allocated to the town in which such village is wholly or partially situated shall be applied to reduce county taxes and general town taxes in the area of the town outside such village or villages. If the amount allocated to a town exceeds the amount of the county taxes and general town taxes levied upon real property in the town, the excess shall be apportioned between the town and each village, if any, wholly or partially situated therein, and paid over or applied in the manner provided in subdivision (c) of this section. The amount allocated to each city in such area shall be similarly applied to reduce county taxes levied upon real property in such city, except that if any such city except any city within a single county having a population of one million or more and containing no more than three towns, shall so provide in the manner provided in subdivision (c) of this section, the amount which would be so applied to reduce county taxes levied upon real property in such city shall be paid directly to the city in lieu of such tax reduction. If the amount allocated to the city exceeds the amount of the county tax levied upon real property in the city, such excess shall be paid to the city.

Notwithstanding any provision of this section to the contrary, where a municipal assistance corporation has been created under article ten of the public authorities law for a city located in a county, any amount which such county allocates to such city under this subdivision shall be payable directly to such city and shall not be provided by reduction of the county tax levied upon real property in such city for so long as such municipal assistance corporation shall exist.

Any local law, ordinance or resolution enacted by a city, town or village pursuant to this subdivision shall only be effective for the calendar year or years subsequent ~~[to]~~ to its enactment and, further, shall only be effective if it is mailed by registered or certified mail to the chief fiscal officer of the county in which the city, ~~[or]~~ town or village is located before the first day of September preceding the calendar year for which the election is made by such local law, ordinance or resolution. Such local law, ordinance or resolution shall remain in effect for subsequent calendar years until rescinded by local law, ordinance or resolution, but the enactment shall rescind the election only if it is mailed, in the same manner already provided for in this subdivision, to the chief fiscal officer of the county in which the city, town or village is located before the first day of September preceding the calendar year for which the ~~[rescission]~~ rescission to apply. The foregoing provisions of this paragraph notwithstanding, where a county imposes a sales and use tax to be effective on a date after the adoption of its budget but within the fiscal year for which such budget has been adopted, and the estimated revenues from such tax include net collections received by the county by reason of its additional rate on the area of the county outside a city imposing the same taxes, and such net collections have not been included in budget revenues for such fiscal year for allocation in reduction of taxes on real property as provided in this subdivision, a local law, ordinance or resolution enacted by a city, town or village pursuant to this subdivision shall be effective as of the effective date of such tax if mailed by registered or certified mail to the chief fiscal officer of the county in which the city, town or village is located within thirty days after the enactment by the county of the local law, ordinance or resolution imposing such tax.

(2) Notwithstanding any provision of general, special or local law to the contrary, if at any time from the effective date of the Buffalo fiscal stability authority act until June thirtieth, two thousand thirty-seven any city in the county of Erie imposes sales and compensating use taxes described in section twelve hundred ten of this article, then the county of Erie shall not be required to allocate under paragraph one of this subdivision, any net collections from its taxes imposed during such period; instead it shall continue to allocate net collections from its taxes to any city in the county which does not impose such taxes and to the area of the county outside the cities, in accordance with the terms of the most current agreement among such county and the cities in the county entered into pursuant to subdivision (c) of this section.

§ 6. Sections 3700, 3701 and 3702 of the public authorities law, as renumbered by chapter 5 of the laws of 1997, are renumbered sections 3900, 3901 and 3902.

§ 7. If any section, part or provision of this act shall be adjudged unconstitutional or invalid or ineffective by any court of this state, any party in interest shall have a direct appeal as of right to the court of appeals of the state of New York, and such appeal shall have preference over all other causes. Service upon the adverse party of a notice of appeal shall stay the effect of the judgment or order appealed from pending the hearing and determination of the appeal.

§ 8. Separability. If any clause, sentence, paragraph, section or part of this act be adjudged by any court of competent jurisdiction to be unconstitutional, invalid, or ineffective, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part

CHAP. 122

30

thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 9. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO

Temporary President of the Senate
Assembly

SHELDON SILVER

Speaker of the
