



Canal Corporation

February 1, 2018

Honorable Catharine Young
Chair, Senate Finance Committee
Legislative Office Building, Room 307
Albany, NY 12247

Honorable Liz Krueger
Ranking Minority Member, Senate Finance Committee
Legislative Office Building, Room 808
Albany, NY 12247

Honorable Helene Weinstein
Chair, Assembly Ways and Means Committee
Legislative Office Building, Room 923
Albany, NY 12248

Honorable Bob Oaks
Ranking Minority Member, Assembly Ways and Means Committee
The Capitol, Room 444
Albany, NY 12248

Honorable Michael H. Ranzenhofer
Chair, Senate Committee on Corporations, Authorities, and Commissions
Legislative Office Building, Room 609
Albany, NY 12247

Honorable Leroy Comrie
Ranking Minority Member, Senate Committee on Corporations, Authorities and Commissions
Legislative Office Building, Room 617
Albany 12247

Honorable Amy Paulin
Chair, Assembly Committee on Corporations, Authorities, and Commissions
Legislative Office Building, Room 422
Albany, NY 12248

Honorable Vivian E. Cook
Ranking Minority Member, Senate Committee on Corporations, Authorities, and Commissions
Legislative Office Building, Room 939
Albany, NY 12248



Canal Corporation

Dear Sirs/Madams:

Submitted herewith, in compliance with Section 2827-a of the Public Authorities Law, please find the New York State Canal Corporation's annual subsidiary report, prepared in cooperation with the Canal Corporation's parent affiliate, the New York Power Authority. The Canal Law, Power Authority Act, and the bylaws of the Canal Corporation are included in the attached report.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Delince". The signature is fluid and cursive.

Karen Delince

Corporate Secretary

Enclosures

New York State Canal Corporation

Subsidiary Public Benefit Corporation Report for
2017

Pursuant to Public Authorities Law Section 2827-a

Subsidiary Report

For the Fiscal Year Ending December 31, 2017

This Subsidiary Report has been prepared pursuant to Public Authorities Law §2827-a.

Legal Name, Address and Contact Information

New York State Canal Corporation
30 South Pearl St.
Albany, NY 12207
(518) 449-6000
1-800-4CANAL4 (1-800-422-6254)
www.canals.ny.gov

Board of Directors

John R. Koelmel, Chairman
Eugene L. Nicandri, Vice Chairman
Dr. Anne M. Kress
Tracy McKibben
Anthony J. Picente, Jr.
Michael A.L. Balboni
Dennis G. Trainor

Officers (as of 12/31/2017)

Chair – John Koelmel
Vice Chair - Eugene Nicandri
President and Chief Executive Officer – Gil Quiniones
Chief Engineering Officer – Joseph Kessler
Chief Legal Officer – Justin Driscoll
Chief Financial Officer – Robert Lurie
Chief Marketing Officer – Jill Anderson
Corporate Secretary – Karen Delince
Treasurer – Genevieve Fabela
Chief Internal Control Officer (Controller) – Thomas Concadoro
Chief Internal Audit Officer (SVP, Internal Audit) – Vacant

Executive Staff

Gil Quiniones – President & CEO
Brian U. Stratton – Director of the Canal Corporation

Organizational Chart

A copy of the Canal Corporation's organizational chart is included with this report.

Purpose

The New York State Canal Corporation (Canal Corporation), a New York state public benefit corporation, was created pursuant to Chapter 766 of the Laws of 1992 as a subsidiary corporation of the New York State Thruway Authority. The Canal Corporation was continued and reconstituted as a subsidiary corporation of the New York Power Authority in 2017 pursuant to Section 1005-b of the Public Authorities Law. The Canal Corporation has responsibility for operating, maintaining, improving and promoting the New York State Canal System (Canal System).

Mission

The mission of the Canal Corporation includes operating and maintaining the Canal System not only as a waterway transportation system, but also as a recreational asset and trail system that honors the historic legacy of the Erie Canal and offers unique recreational and tourism opportunities, while also promoting sustainable economic development throughout the Canal System corridor.

Operations

The Canal Corporation manages and oversees the Canal System, which includes the Erie, Champlain, Oswego, and Cayuga-Seneca canals – the third generation of a Canal System which has been in continuous operation for 193 years. The Canal System is comprised of 524-miles of inland waterway, with an extensive feeder system, and includes the four aforementioned canals, over 2,000 structures (including 57 locks and 20 lift bridges), 22 reservoirs, and numerous service ports and harbors. This system is part of a network of waterways which stretches south to Florida, north to Canada and west to the Great Lakes and the Mississippi River. Additionally, the Canal System includes the Canalway Trail, which is a subset of the Empire State Trail.

In addition to maintaining the physical infrastructure of the Canal System, the Canal Corporation also oversees several projects and initiatives designed to highlight the Canal System as a year-round, world-class destination, and to maximize the Canal System’s benefit to the State and communities throughout the corridor.

Projects Summary

The Canal Corporation’s capital projects tend to address repairs and maintenance to the infrastructure along the canals. For further details, see the chart below.

<u>PROJECTS UNDERWAY</u>			
<u>Letting Year</u>	<u>QTR.</u>	<u>ITEM NO.</u>	<u>PROJECT DESCRIPTION</u>
2017	4	T35.3	Fort Herkimer Church to Erie Canal Lock E18 Canalway Trail. Construction is scheduled for completion by May 31, 2019.

2017	2	C88.1	Oswego Lock O-7 Rehabilitation. Construction is underway and scheduled for completion by June 26, 2020.
<u>PROJECTS COMPLETED</u>			
2016	2	C53.1	Fabrication of New Gates for Lyons Section Dry Dock, Wayne
2016	1	C217.1	Erie Canal Lock 32 Bypass Culvert - Repairs, Monroe County (funded with 2005 Transportation Bond Act funds)

Statement of Justification

The ongoing operations and maintenance programs administered by the Canal Corporation continue to revitalize and transform the Canal System, a National Historic Landmark, into a respected tourist destination, while sustaining its long standing role as a commercial corridor, combining to help revitalize upstate communities in both urban and rural areas. The Canal Corporation has historically supported significant economic growth for the State and nation, creating inland trade and propelling economic development. Additionally, the Canal System and Canalway Trail together create a world-class recreationway that is a vibrant, scenic, and unique New York resource. Communities have formed all along the corridor, utilizing the Canals as a gathering place, and a lifeline for economic resurgence. Today’s Canal System is a critically important part of the State’s tourism industry, with nearly \$380 million in tourism spending generated annually at businesses in communities from the Hudson River to Lake Erie.

**NEW YORK POWER AUTHORITY
NEW YORK STATE CANAL CORPORATION**
John R. Koelmel, Chairman
Eugene L. Nicandri, Vice Chairman
Dr. Anne M. Kress
Tracy McKibben
Anthony J. Picente, Jr.
Michael A.L. Balboni
Dennis G. Trainor

ADMINISTRATIVE SUPPORT
Diane Barrett

PRESIDENT & CEO
Gil Quiniones

CHIEF OPERATING
OFFICER -NYP
Joseph Kessler

DIRECTOR OF
CANAL CORP.
Brian Stratton

CHIEF OF COMMERCIAL
OPERATIONS
Paul Belnick

HR & ENTERPRISE
SHARED SERVICE
Kristine Pizzo

CHIEF FINANCIAL
OFFICER
Robert Lurie

CHIEF RISK
OFFICER
Soubhagya Parija

PUBLIC &
REGULATORY AFFAIRS
Kim Harriman

CHIEF LEGAL
OFFICER
Justin Driscoll

CHIEF OPERATING
OFFICER – CANAL CORP.
Ed Welz

SVP OF INTERNAL AUDIT
Angela Gonzalez

DEPUTY DIRECTOR OF CANAL
ENGINEERING, CONSTRUCTION &
MAINTENANCE
Howard Goebel

EXECUTIVE DEPUTY
John Callaghan

CANAL RECREATIONWAY
COMMISSION

January 31, 2017

**BY-LAWS
of the
NEW YORK STATE CANAL CORPORATION**

Originally Adopted.....September 2, 1992
Amended.....January 31, 2017.

ARTICLE I – Offices

Section 1. Principal Office

The principal office of the New York State Canal Corporation (hereinafter referred to as the "Corporation") shall be its Albany, New York office.

Section 2. Other Offices

The Corporation may also have offices at such other places as the Board of Directors of the Corporation (hereinafter referred to collectively as the "Board" and each individually as a "Board member") may from time to time determine or the business of the Board may require.

Section 3. Books and Records

Except as otherwise determined by the Board or as the business of the Corporation may require, all books and records of the Corporation shall be kept at the White Plains, New York, office of Power Authority of the State of New York (hereinafter the "Authority").

ARTICLE II – Board of Directors

Section 1. Number, Term, Appointment and Vacancies

The number and term of Board members and the appointment and process of filling vacancies shall be governed by Title 1 of Article 5 of the New York State Public Authorities Law (hereinafter the "Power Authority Act"). The Board shall be the same persons holding the offices of Trustees of the Authority and the Chair of the Authority shall hold the same position as the Chair of the Corporation until the conclusion of his or her term. The Chair is the "appointing authority," as defined in Section 2, subdivision 9, of the Civil Service Law, and has the power to appoint and remove officers, agents and employees and fix their compensation, provided, however, that the appointment of the President and Chief Executive Officer shall be subject to confirmation by the New York State Senate in accordance Public Authorities Law Section 2852.

Section 2. Powers and Duties

The powers and duties of the Board shall be governed by the Power Authority Act and the Canal Law, and shall include those powers and duties set forth in the Public Authorities Law. To implement these powers and duties, the Board shall oversee the Corporation's executive management in the effective and ethical management of the Corporation. The Board shall be responsible for acting in good faith, with independent judgment and shall adhere to the Authority's code of conduct and conflict of interest procedure. The following are certain, but not all, actions by the Corporation that require an act of the Board: (a) establishment of policies regarding the payment of salary, compensation and reimbursements to, and establish rules for the time and attendance of, management; (b) adoption of a code of ethics applicable to each officer, director and employee that, at a minimum, includes the standards established in section seventy-four of the public officers law; (c) establishment of written policies and procedures on personnel including policies protecting employees from retaliation for disclosing

information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, investments, travel, the acquisition of real property and the disposition of real and personal property and the procurement of goods and services; and (d) adoption of a defense and indemnification policy and disclose such policy to any and all prospective Board members.

ARTICLE III - Board Meetings

Section 1. General

The meetings of the Board shall be governed by Article 7 of the Public Officers Law (hereinafter referred to as the "Open Meetings Law").

Section 2. Meetings

Meetings of the Board may be held at the White Plains or Albany office of the Authority or at such other place as the Board may from time to time designate. The meetings of the Board shall be held at least quarterly in accordance with a schedule adopted annually by the Board for that purpose and may be changed from time to time within that year by the Chair in consultation with the Board. Special meetings of the Board may be called by the Chair or Vice Chair upon the request of any three Board members. The Corporate Secretary shall give notice of the time, place and purpose or purposes of each special meeting by mail at least three days before the meeting or in person or by telephone, facsimile or by other electronic communication at least two days before the meeting to each Board member. The notice requirement to be given under this section may be waived by the Board member to whom such notice is required to be given. The annual meeting of the Board shall be held in March of each year, unless otherwise determined by them and at such time and place as the Board may from time to time designate. As authorized by the Open Meetings Law, meetings of the Board may be conducted by videoconferencing if the public is provided an opportunity to attend, listen and observe at any site at which a Board member participates in such meeting.

Section 3. Quorum

At all Board meetings, a majority of the members of the Board then sitting shall constitute a quorum and shall be sufficient for the transaction of business. A Board member may participate by videoconference, which shall count for quorum and voting purposes. A Board member may participate by telephone but such participation shall not count for quorum or voting purposes.

ARTICLE IV – Officers

Section 1. Officers

The officers of the Corporation shall be a Chair and a Vice Chair, a Chief Executive Officer, and such engineering, marketing and legal officers and employees as the Board Chair may require from time to time, including, without limitation, the Chief Engineering Officer, Chief Legal Officer, Chief Financial Officer, Chief Marketing Officer, Chief Communication Officer, Corporate Secretary, Chief Internal Control Officer and Chief Internal Audit Officer.

Section 2. Appointment of Officers

The officers shall be appointed by formal resolution adopted by the Board at any annual, regular or special meeting of the Board, except that the Chief Internal Audit Officer, shall be appointed by the Board upon the recommendation of the Audit Committee.

Section 3. Term of Office

All officers shall each hold office until his or her successor is chosen and qualified or until his or her earlier removal, resignation or death.

Section 4. Vacancies and Removal

The Chair may fill these positions with an acting or interim appointment until such time as a permanent replacement is appointed. Any officer appointed by the Chair herein shall be subject to removal at any time by the Chair with or without cause.

Section 5. Powers and Duties

A. Chair

The Chair shall preside at all meetings of the Board, shall be responsible for developing the strategic vision and mission of the Corporation and shall on behalf of the Board oversee the Corporation's management in the effective and ethical management of the Corporation. The Chair may appoint such assistants and employees as he or she may deem necessary in order to perform such function and may fix their power, duties and compensations. The Chair may delegate to the Vice Chair, President and Chief Executive Officer or other officer or officers such of the Chair's powers and functions in the general supervision of the business of the Corporation to the extent such delegation is consistent with the Power Authority Act and other applicable provisions of law.

B. Vice Chair

The Vice Chair shall possess such powers and shall perform such duties as may be assigned to him or her from time to time by the Board. The Vice Chair shall be Acting Chair in the absence or incapacity of the Chair and shall assume the powers and perform all duties of the Chair if the Chair is unable to perform such duties for any reason. The Vice Chair, when acting in the capacity of Acting Chair under this section, may delegate the powers or duties of Chair to another Board member or the President and Chief Executive Officer during the period of disability or incapacity of the Chair.

C. Chief Executive Officer

The Chief Executive Officer (the "President and Chief Executive Officer") shall report directly to the Board, and shall be responsible for the general supervision and direction of the operations, business and activities of the Corporation, with the exception of those activities or business units under the supervision of officers reporting to the Chair or the Board. The President and

Chief Executive Officer shall supervise the Director of Canals. The President and Chief Executive Officer may sign, execute and deliver in the name of the Corporation powers of attorney, contracts, agreements, leases, notes, checks, drafts, bonds, obligations and such documents other than those required by these By-laws, law or resolution to be executed by the Chair and/or the Corporate Secretary. The President and Chief Executive Officer may, as deemed appropriate, delegate his or her powers and responsibilities to any officer.

D. Chief Engineering Officer

The Chief Engineering Officer (the “Executive Vice President and Chief Operating Officer”) of the Corporation shall report directly to the President and Chief Executive Officer, shall manage and monitor the operations of the Corporation, and shall exercise such other duties as the President and Chief Executive Officer or Board shall from time to time determine. The Executive Vice President and Chief Operating Officer may, as deemed appropriate, delegate his or her powers and responsibilities to any officers of the Authority.

E. Chief Legal Officer

The Chief Legal Officer (the “Executive Vice President and General Counsel”) of the Corporation shall report to both the Board and the President and Chief Executive Officer, and shall advise and represent the Corporation generally in all legal matters and proceedings, including legislative proceedings, shall designate those employees who shall be eligible to accept service of process on behalf of the Corporation, and shall exercise such other duties as the President and Chief Executive Officer or Board shall from time to time determine. In addition, the Executive Vice President and General Counsel, together with the Chair and the Board, shall supervise and direct the activities of the Office of the Corporate Secretary and the Office of Ethics and Compliance.

F. Chief Financial Officer

The Chief Financial Officer (the “Executive Vice President and Chief Financial Officer”) of the Corporation shall be responsible for the overall supervision of the financial activities of the Corporation, and shall exercise such other duties as the President and Chief Executive Officer or Board shall from time to time determine. The Executive Vice President and Chief Financial Officer shall report directly to the President and Chief Executive Officer and shall, when requested, give advice to the Chair and Board.

G. Chief Marketing Officer

The Chief Marketing Officer (the “Executive Vice President and Chief Commercial Officer”) of the Corporation shall report directly to the President and Chief Executive Officer, shall oversee all of the Corporation’s power programs for economic development and energy efficiency, and shall exercise such other duties as the President and Chief Executive Officer or Board shall from time to time determine.

H. Chief Communication Officer

The Chief Communication Officer (the “Senior Vice President for Public and Regulatory Affairs”) of the Corporation shall report directly to the President and Chief Executive Officer, shall oversee Community and Government Relations, Corporate Communications, and the Executive Office, and shall exercise such other duties as the President and Chief Executive Officer or Board shall from time to time determine.

I. Corporate Secretary

The Corporate Secretary shall report to the Board, and the Executive Vice President and General Counsel, and shall attend all meetings of the Board and be responsible for maintaining the corporate record, giving notice of all meetings and affixing the corporate seal to all documents as authorized, and shall exercise such other duties as the Board shall from time to time determine.

J. Treasurer

The Treasurer shall have general custody of all funds and securities of the Corporation and have general supervision of the collection and disbursement of Corporation funds and shall endorse on behalf of the Corporation for collection checks, notes and other obligations, and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as the Board may designate. The Treasurer may sign with the Chair, or such other person or persons as may be designated for such purpose by the Board, all bills of exchange or promissory notes of the Corporation, and shall exercise such other duties as the Chair shall from time to time determine.

K. Chief Internal Control Officer

The Chief Internal Control Officer (the “Controller”) shall be in charge of the accounting operations, the preparation of fiscal accounts and the coordination of external audits of the Corporation, and shall exercise such other duties as the President and Chief Executive Officer or Board shall from time to time determine.

L. Chief Internal Audit Officer

The Chief Internal Audit Officer (the “Senior Vice President, Internal Audit”) shall report directly to the Board and shall have such other powers and perform such other duties as customarily pertain to such office, and shall exercise such other duties as the President and Chief Executive Officer or Board shall from time to time determine. The Senior Vice President, Internal Audit shall meet at least twice per year with the Audit Committee.

M. Succession – Absence or Vacancy of Office of President and Chief Executive Officer

In the event of the incapacity or absence of the President and Chief Executive Officer, the Executive Vice President and Chief Operating Officer, shall perform the duties of the President and Chief Executive Officer. If the office of Executive Vice President and Chief Operating Officer, is vacant or the incumbent is absent, then the Executive Vice President and General Counsel shall perform the duties of the President and Chief Executive Officer. If the offices of Executive Vice President and Chief Operating Officer, and Executive Vice President and

General Counsel are vacant or the respective incumbents are absent, then the Executive Vice President and Chief Financial Officer shall perform the duties of the President and Chief Executive Officer.

ARTICLE V – Committees

Section 1. Audit Committee

The Board shall establish an Audit Committee to be comprised of not less than three independent members, appointed by the Board, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the Audit Committee; provided, however, that in the event that the Board has less than three independent members, the Board may appoint non-independent members to the Audit Committee, provided that the independent members must constitute a majority of the members of the Audit Committee. The Audit Committee shall have responsibilities related to: the independent auditor and annual financial statements; the Corporation's internal auditors; oversight of management's internal controls, compliance and risk assessment practices; and miscellaneous issues related to the financial practices of the Corporation. The committee shall, among other duties, recommend to the Board the hiring of a certified independent accounting firm for such Corporation, establish the compensation to be paid to the accounting firm and provide direct oversight of the performance of the independent audit performed by the accounting firm hired for such purposes. The Audit Committee will meet a minimum of twice a year, with the expectation that additional meetings may be required to fulfill all the required obligations and duties.

Section 2. Governance Committee

The Board shall establish a Governance Committee to be comprised of not less than three independent members, appointed by the Board, who shall constitute a majority on the committee, and who possess the necessary skills to understand the duties and functions of the Governance Committee; provided, however, that in the event that the Board has less than three independent members, the Board may appoint non-independent members to the Governance Committee, provided that the independent members must constitute a majority of the members of the Governance Committee. It shall be the responsibility of the members of the Governance Committee, among other duties to keep the Board informed of current best governance practices; to review corporate governance trends; to recommend updates to the Corporation's corporate governance principles; to review special investigations and whistleblower policies; to advise appointing authorities on the skills and experience required of potential Board members; to examine ethical and conflict of interest issues; to perform Trustee self-evaluations; and to recommend By-laws which include rules and procedures for conduct of Board business. The Governance Committee will meet a minimum of twice a year; with the exception that additional meetings may be required to adequately fulfill all the required obligations and duties.

Section 3. Finance Committee

The Board shall establish a Finance Committee to be comprised of not less than three independent members, appointed by the Board, who shall constitute a majority on the

committee, and who shall possess the necessary skills to understand the duties and functions of the Finance Committee provided, however, that in the event that the Board has less than three independent members, the Board may appoint non-independent members to the Finance Committee, provided that the independent members must constitute a majority of the members of the Finance Committee. It shall be the responsibility of the Finance Committee to review proposals for the issuance of debt by the Corporation and make appropriate recommendations to the Board and perform such other responsibilities as the Board shall from time to time assign to it. The Finance Committee will meet prior to any debt issuance planned to be undertaken by the Corporation, as well at such times deemed advisable by the chair, at minimum once a year.

ARTICLE VI - Corporate Seal

Section 1. Seal

The seal of the Corporation shall be a design bearing the outline of the map of the State of New York and generally indicating the route of the Canal system and bearing the words "New York State Canal Corporation" around the circumference thereof. The Secretary shall be the custodian of the seal as shown by the following impression of such seal:

ARTICLE VII - Fiscal Management

Section 1. Fiscal Year

The Board shall have the power to fix, and may, from time to time, change by resolution, the fiscal year of the Corporation. Unless otherwise fixed by the Board, the calendar year shall be the fiscal year.

Section 2. Strategic Plan

The Board shall annually review a strategic plan, which shall become the basis for the development of departmental plans, the annual budget and the capital expenditure plan.

Section 3. Annual Budgets

The Board shall annually adopt and submit, as prescribed by the Public Authorities Law, an operation and maintenance budget and a capital budget for the Corporation's operating facilities and support departments.

Section 4. Capital Expenditure Plan

The Board shall review an annual capital expenditure plan which shall summarize all present and proposed capital projects.

Section 5. Expenditure Authorization Procedures

The Board shall adopt expenditure authorization procedures which shall govern the annual budget, capital expenditure plan, contract executions and all approval authorizations.

Section 6. Disbursement of Funds

The Board, except as otherwise provided in these By-laws, may authorize any officer or other employee to execute any requisition, voucher, draft or check for the disbursement or transfer of funds of the Corporation.

ARTICLE VIII - Execution of Instruments

Section 1. Execution of Instruments

The Board, except as otherwise provided in these By-laws, may authorize any officer, employee or agent, pursuant to the expenditure authorization procedures or otherwise, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such power to execute and deliver may be general or specific; unless so authorized, no officer, employee or agent shall have any power or authority to bind the Corporation by any contract or engagement or pledge of its credit or to render it liable pecuniarily for any purpose or in any amount. The Vice President - Procurement and the Vice President - Enterprise Shared Services shall exercise the same powers under this section for the Corporation as they do for the Authority.

ARTICLE IX – Amendment

Section 1. Amendment

The Board shall have the power to amend, alter or repeal any provision or provisions of these By-laws at any annual, regular or special meeting.

ARTICLE X – Miscellaneous

Section 1. Annual Reports

The Board shall approve, submit and publish a certified annual report, as prescribed by the Public Authorities Law, within ninety days after the close of the Corporation's fiscal year.

Section 2. Corporation Policies and Procedures

Unless otherwise provided by law, regulation or these By-laws, every officer or employee of the Corporation shall be subject to all Corporation policies and procedures.

CANAL LAW

Article I – Short Title and Definitions

§ 1 Short title

This chapter shall be known as the “Canal Law.”

§ 2. Definitions

The following terms when used in this chapter, unless otherwise expressly stated or unless the context or subject matter requires otherwise, shall have the following meanings:

1. “New York State Canal System”, “Canal System” or “Barge Canal System” shall each mean all the canals, canal lands, feeder canals, reservoirs, canal terminals and canal terminal lands of the state as hereinafter defined. All general references herein to “canal” shall be deemed to mean the New York state canal system.
2. “Canals” shall mean the channel and adjacent state-owned banks of the inland waterways of the state constructed, improved, or designated by authority of the legislature as canals and shall include canalized rivers and lakes, canal water supply reservoirs, canal water supply feeder channels and all appertaining structures necessary for the proper maintenance and operation of the canals.
3. “Canal Terminal” or “Barge Canal Terminal” shall each mean the facilities which have been constructed or acquired under authority of the legislature in connection with the canal system for loading, unloading, and/or temporarily storing commodities transported upon the canals and shall include docks, dock walls, bulkheads, wharves, piers, slips, basins, harbors, grain elevators, buildings, equipment, tracks and roadways together with the lands now owned or as may hereafter be acquired by the state for the proper maintenance and operation of the canal terminals.
4. “Erie Canal” shall mean the portion of the canal system connecting the Hudson river at Albany with the Niagara river at Buffalo, and for the purposes of article thirteen-A of this chapter and section ninety-two-u of the state finance law and subdivision ten of section three hundred fifty-one of the public authorities law, shall be deemed to include the historic Erie Canal and its western terminus in the city of Buffalo and historic lock number 1 in the city of Albany.
5. “Oswego Canal” shall mean the portion of the canal system connecting the Erie canal at Three Rivers with Lake Ontario at Oswego.
6. “Champlain Canal” shall mean the portion of the canal system connecting the easterly end of the Erie canal at Waterford with Lake Champlain at Whitehall.
7. “Cayuga and Seneca Canals” shall mean the portions of the canal system connecting the Erie canal at a point near Montezuma with Cayuga and Seneca lakes and through Cayuga lake and Cayuga inlet to the southerly side of State Street in the city of Ithaca and through Seneca lake with Montour Falls.

8. "Canal Lands" shall mean all lands and waters forming a part of the canal system title to which was originally vested in the state, acquired by the state or which may in the future be acquired by the state for canal purposes.
9. "Blue Line" shall mean the boundary of canal lands owned by the state previous to the approval of chapter one hundred forty-seven, laws of nineteen hundred three.
10. "Old Canal Lands" shall mean canal lands lying within the blue line.
11. "Barge Canal Lands" shall mean canal lands acquired subsequent to the approval of chapter one hundred forty-seven, laws of nineteen hundred three, except barge canal terminal lands acquired under the provisions of chapter seven hundred forty-six, laws of nineteen hundred eleven, and acts amendatory thereto.
12. "Canal Terminal Lands" or "Barge Canal Terminal Lands" shall each mean canal lands acquired under the provisions of chapter seven hundred forty-six, laws of nineteen hundred eleven, and amendatory laws.
13. "Permit" shall mean a revocable agreement granting temporary occupancy or use of lands or structures of the canal system.
14. "Float" shall mean every boat, vessel, raft or floating thing navigated on the canals or moved thereupon under the direction of some person having the charge thereof.
15. "Master" shall mean every person having for the time the charge, control or direction of any float.
16. "Person" shall mean an individual, partnership, corporation or association.
17. "Great Lakes-Hudson River waterway" shall mean that section of the Erie canal from Waterford to Three Rivers Point and the Oswego canal thence to the port of Oswego as such waterway was designated by acts of congress authorizing the federal aid improvement project for the Great Lakes-Hudson River waterway.
18. "Authority" shall mean the power authority of the state of New York, a body corporate and politic constituting a political subdivision of the state created and constituted pursuant to title one of article five of the public authorities law.
19. "Adirondack park" shall have the same meaning as set forth in section 9-0101 of the environmental conservation law.
20. "Commission" shall mean the canal recreationway commission created pursuant to section one hundred thirty-eight-a of this chapter.
21. "Corporation" and "canal corporation" shall mean the New York state canal corporation, a public benefit corporation created pursuant to chapter seven hundred sixty-six of the laws of nineteen hundred ninety-two and continued and reconstituted as a subsidiary corporation of the power authority of the state of New York pursuant to subdivision one of section one thousand five-b of the public authorities law.
22. "Canal fund" shall mean the New York state canal system development fund established pursuant to section ninety-two-u of the state finance law.

23. “Canalway trail” shall mean any multi-use recreational trail located on lands under the jurisdiction of the corporation. The exact boundaries and location of such trail and any portions or sections thereof shall be determined by the corporation except that the boundaries and location of such trail shall be determined in such a manner that no portion thereof shall be within the Adirondack Park.

24. “Thruway authority” shall mean the New York state thruway authority, a body corporate and politic constituting a public corporation created and constituted pursuant to title nine of article two of the public authorities law.

Article I-a – Transfer to Power Authority of the State of New York

§ 5 Transfer of powers and duties relating to canals and canal lands to the power authority of the state of New York

The powers and duties of the thruway authority relating to the New York state canal system as set forth in articles one through and including fourteen, except article seven, of this chapter, and except properties in use on the effective date of this article in support of highway maintenance, equipment management and traffic signal operations of the department of transportation, heretofore transferred by the commissioner of transportation to the thruway authority, are hereby transferred to and merged with the authority, to be exercised by the authority directly or through the canal corporation on behalf of the people of the state of New York. In addition, the commissioner of transportation and the chair of the authority or his or her designee may, in their discretion, enter into an agreement or agreements transferring the powers and duties of the commissioner of transportation relating to any or all of the bridges and highways as set forth in article seven of this chapter, to be exercised by the authority directly or through the canal corporation on behalf of the people of the state of New York, and, as determined to be feasible and advisable by the authority’s trustees, shall enter into an agreement or agreements directly or through the canal corporation for the financing, construction, reconstruction or improvement of lift and movable bridges on the canal system. Such powers shall be in addition to other powers enumerated in title one of article five of the public authorities law. All of the provisions of title one of article five of such law which are not inconsistent with this chapter shall apply to the actions and duties of the authority pursuant to this chapter. The authority shall be deemed to be the state in exercising the powers and duties transferred pursuant to this section but for no other purposes.

§ 6 Transfer of canal lands and other assets

1. The jurisdiction of the thruway authority over the New York state canal system and over all state assets, equipment and property, both tangible and intangible, owned or used in connection with the planning, development, construction, reconstruction, maintenance and operation of the New York state canal system, as set forth in articles one through and including fourteen, except article seven, of this chapter, and except properties in use on the effective date of this article in support of highway maintenance, equipment management and traffic signal operations of the department of transportation, heretofore transferred by the commissioner of transportation to the thruway authority, are hereby transferred without consideration to the authority, to be held by the authority in the name of the people of the state of New York. In addition the commissioner of transportation and the chair of the authority or his or her designee may, in their discretion, enter into an agreement or agreements transferring jurisdiction over any or all of the bridges and highways set forth in article seven of this chapter, and any or all state assets, equipment and property, both tangible and intangible, owned or used in connection with the planning, development, construction, reconstruction, maintenance and operation of such bridges and highways, which shall be transferred without consideration to the authority, to be held by the authority through the corporation in the name of the people of the state of New York. Any other rights and obligations resulting from or arising out of the planning, development,

construction, reconstruction, operation or maintenance of the New York state canal system shall be deemed assigned to and shall be exercised by the authority through the corporation, except that the authority may designate the chair of the thruway authority to be its agent for the operation and maintenance of the New York state canal system, provided that such designation shall have no force or effect after January first, two thousand seventeen. Such canal system shall remain the property of the state and under its management and control as exercised by and through the authority, through the corporation which shall be deemed to be the state for the purposes of such management and control of the canals but for no other purposes.

2. The department of transportation and thruway authority shall deliver to the authority all books, policies, procedures, papers, plans, maps, records, equipment and property of such department pertaining to the functions transferred pursuant to this article.

3. All rules, regulations, acts, determinations, orders and decisions of the commissioner of transportation, department of transportation, or thruway authority pertaining to the functions transferred pursuant to this article in force at the time of such transfer shall continue in force and effect as rules, regulations, acts, determinations, orders and decisions of the authority and corporation until duly modified or abrogated by such authority or corporation.

4. Any business or other matters undertaken or commenced by the thruway authority, including executed contracts, permits and other agreements, but excluding bonds, notes or other evidences of indebtedness, pertaining to or connected with the powers, duties and obligations transferred pursuant to this article, and in effect on the effective date of the transfer of such matters from the thruway authority to the authority provided for in this article, shall, except as otherwise agreed by the authority and the thruway authority, be conducted and completed by the authority through the corporation in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the thruway authority, provided that nothing in this subdivision shall be deemed to require the authority to take any action in a manner that would in its judgment be inconsistent with the provisions of any bond or note resolution or any other contract with the holders of the authority's bonds, notes or other obligations.

5. No existing rights or remedies of the state, authority, thruway authority, or canal corporation shall be lost, impaired or affected by reason of this article.

6. (a) No action or proceeding pending on the effective date of the transfer of powers, duties and obligations from the thruway authority to the authority brought by or against the thruway authority, the commissioner of transportation, the corporation, the department of transportation or the authority shall be affected by this article. Any liability arising out of any act or omission occurring prior to the effective date of the transfer of the powers, duties and obligations from the thruway authority to the authority, of the officers, employees or agents of the thruway authority, the department of transportation, or any other agency of the state, other than the authority, in the performance of their obligations or duties under the canal law, any other law of the state or any federal law, or pursuant to a contract entered into prior to the effective date of such transfer, shall remain a liability of the thruway authority, the department of transportation or such other agency of the state and not of the authority.

(b) Notwithstanding any provision to the contrary contained in paragraph (a) of this subdivision, the state shall indemnify and hold harmless the thruway authority, the corporation and the authority for any and all claims, damages, or liabilities, whether or not caused by negligence, including civil and criminal fines, arising out of or relating to any generation, processing, handling, transportation, storage, treatment, or disposal of solid or hazardous wastes in the canal system by any person or entity other than the thruway authority or the authority occurring prior to August third, nineteen hundred ninety-two. Such indemnification shall extend to, without limitation, any releases into land, water or air, including but not limited to releases as defined under the federal comprehensive environmental response compensation and

liability act of nineteen hundred eighty, occurring or existing prior to August third, nineteen hundred ninety-two; provided that the thruway authority, the corporation and the authority shall cooperate in the investigation and remediation of hazardous waste and other environmental problems.

(c) Notwithstanding any provision to the contrary contained in paragraph (a) of this subdivision, the thruway authority shall indemnify and hold harmless the corporation and the authority for any and all claims, damages, or liabilities, whether or not caused by negligence, including civil and criminal fines, arising out of or relating to any generation, processing, handling, transportation, storage, treatment, or disposal of solid or hazardous wastes in the canal system by any person or entity other than the authority occurring after August third, nineteen hundred ninety-two and no later than the effective date of the transfer of powers, duties and obligations from the thruway authority to the authority. Such indemnification shall extend to, without limitation, any releases into land, water or air, including but not limited to releases as defined under the federal comprehensive environmental response compensation and liability act of nineteen hundred eighty, occurring or existing prior to the effective date of the transfer of powers, duties and obligations from the thruway authority to the authority; provided that the corporation and the authority shall cooperate in the investigation and remediation of hazardous waste and other environmental problems.

(d) Except as otherwise provided in this chapter, the thruway authority shall retain all liabilities, whether or not caused by negligence, arising out of any acts or omissions occurring on or after August third, nineteen hundred ninety-two, in connection with its powers, duties and obligations with respect to the corporation. The authority and the state shall not be held liable in connection with any liabilities arising out of such acts or omissions.

7. Notwithstanding any provision of law to the contrary, in connection with the transfer of jurisdiction of the corporation to the authority and the assumption of management of the corporation as a subsidiary corporation of the authority pursuant to the chapter of the laws of two thousand sixteen which added this subdivision, the thruway authority shall have the power to fulfill any existing agreements or obligations, make any agreements, receive, retain or pay any funds, deemed necessary and in the public interest to effectuate the provisions and intent of this chapter, including but not limited to, the entering into any agreements with the corporation, the authority and any other federal, state, municipal or other entities, and to receive funds from the federal emergency management agency or the state, to fulfill the thruway authority's existing financial or other obligations arising from its jurisdiction over the canal system and the corporation.

Article II – Powers of the Canal Corporation

§ 10. General powers and duties of the corporation relating to canals

The corporation shall:

1. Have general supervision of the canal system and its operating personnel and enforce the faithful administration and observance of the canal law.
2. Appoint and remove all officers and employees in the administration of canal matters in conformity with the provisions of title nine of article two of the public authorities law.
3. Provide for all engineering services required in the improvement, maintenance and repair of the canal system.

4. Cause surveys, maps, plans, specifications and estimates to be made for the improvement, maintenance and repair of the canal system.
5. Cause plans, specifications and estimates covering canal contracts to be prepared.
6. Cause inspections of the canal system to be made annually.
7. Determine the boundaries of the districts of the canal system and change such boundaries when it deems it expedient.
8. Keep and maintain in good condition the canals, canal terminals and corporation equipment used in the maintenance and repair of the canal system.
9. Prescribe rules and regulations not inconsistent with law relating to the navigation, protection and maintenance of the canal system and enforce such rules and regulations by prescribing fines, penalties or forfeitures not to exceed one hundred dollars for each offense.
- 9-a. Undertake lock improvements designed to attract tourists to the locks and surrounding communities. Such improvements may include, but not be limited to, comfort stations, information kiosks, picnic tables and grills, docking facilities, lock beautification, campsites, telephone service, and trash collection and removal facilities.
10. Enforce compliance with laws, rules and regulations relating to posting of limited loads and clearances on all bridges over the canal system under the jurisdiction of the department of transportation pursuant to section six and article seven of this chapter.
11. Compile statistics relating to the canal system and the traffic thereon and collect such other information in regard thereto as it shall deem expedient.
12. Make an annual report to the legislature, covering the calendar year, on the trade and tonnage handled, on the condition of the canals and the work and improvements connected therewith.
13. Cause a record to be made and filed on January first, in the corporation of all expenditures during the previous fiscal year from moneys appropriated for the canal system.
14. Permit boat owners operating upon the canal system to use state drydocks while making emergency repairs to their vessels.
15. Grant leases and issue revocable permits pursuant to this chapter.
16. Cause to be removed from canal lands any encroachments which in its judgment are detrimental.
17. Cause to be acquired lands necessary for canal purposes and cause to be abandoned such canal lands as are no longer necessary or useful for canal purposes. The commissioner of environmental conservation shall be given notice of any lands located within the Adirondack park which are no longer necessary or useful for canal purposes and which are to be abandoned, and shall be given sixty days within which to request the transfer of such lands. Such lands for which such a request has been made shall be transferred to the department of environmental conservation.
18. Accept available federal aid money for the construction, reconstruction, improvement, restoration, repair, operation, maintenance or rehabilitation of any section, appurtenances or facility of the Barge canal system.

19. Investigate all matters relating to the administration and operation of the canal system and its personnel.
20. Either absolutely, or on such conditions as it prescribes, remit fines imposed, if in its judgment such action is expedient.
21. Administer, operate and maintain the state-owned hydro-electric power plants on the Mohawk river at Crescent and Vischer Ferry.
22. When an emergency arises endangering life or the canal system, seize any lands, equipment or supplies necessary to avert such damage.
23. Prepare an inventory sufficient for planning purposes which includes at least: (a) a general description of all state-owned property which comprises the canal system, and where appropriate other state-owned property contiguous to the canal system, specifying present use and facilities for public use, including but not limited to parks and recreation facilities; (b) a description of significant freshwater wetlands and lands which possess significance for wildlife management, recreation or natural resource protection purposes within the canal system; and (c) significant municipal and privately-owned facilities which serve users of the canal system. Such inventory shall be provided to the commission no later than July thirty-first, nineteen hundred ninety-three.
24. Prepare on an annual basis a detailed five-year capital plan for the maintenance and improvement of canal infrastructure. Such plan shall set system-wide goals and objectives for capital spending and, commencing January first, nineteen hundred ninety-five, describe the compatibility of such plan to the canal recreationway plan approved pursuant to section one hundred thirty-eight-c of this chapter. Such plan shall include but not be limited to such capital project categories as locks, canal bridges, channels, shorelines, dams, guard gates, and other structures necessary for safe and successful operation of the canal system. The plan shall also include a detailed schedule of all capital projects which the authority intends to undertake within the next five years and shall provide the following information for each such capital project: (a) a description of the project; (b) an indication of the category into which the project has been classified in the capital plan; (c) the estimated total cost of the project and expenditures by year for such project; (d) the actual disbursements by project for the prior year; and (e) the estimated dates of project initiation and completion. The plan shall also include a statement of the mix of financing methods to be used by the authority for financing the capital plan. The capital plan shall be submitted to the governor, the temporary president of the senate and the speaker of the assembly on the first day of January of each year commencing in nineteen hundred ninety-three.
25. Prepare, in consultation with the department of environmental conservation: (a) a survey of canal lands in the Adirondack park; and (b) a study of canal lands in the Adirondack park subject to permits, including the identification of any structures or activities that are not allowed by law or by such permits. Such survey and study shall be completed and submitted to the commission no later than January first, nineteen hundred ninety-four.
26. Perform such other acts as in its judgment constitute a duty required to efficiently administer the canal system.

§ 11. Adopt-a-trail program

1. The corporation may develop and implement an adopt-a-trail program, the purposes of which may be to reduce and remove litter and debris and to enhance the appearance and maintenance of the canalway trail and related facilities, as needed. Such program may include, but not be limited to:

(a) coordinating the services of volunteers and/or volunteer organizations (i) to reduce the amount of litter and debris on sections of the canalway trail; and (ii) to enhance the appearance and maintenance of the canalway trail through activities that may include, but not be limited to, brush clearing, lawn maintenance, tree trimming, plantings, installation, repair and/or replacement of benches, kiosks, picnic tables and shelters; and (iii) to enhance recreational opportunities; and

(b) providing and installing signs identifying those volunteers and/or volunteer organizations adopting particular sections of the canalway trail.

2. Notwithstanding any inconsistent provision of law, the corporation, authority, and commission, including any members, officers or employees thereof, shall not be liable for damages suffered by any persons and/or organizations resulting from any actions or activities of such volunteers and/or volunteer organizations.

Article III – Canal Engineering

§ 20 Repealed

§ 21. Preparation contract, plans and estimates

The corporation shall make surveys and prepare plans and specifications for work in connection with the improvement, maintenance or repair of the canal system to be performed under contract. It shall ascertain with all practical accuracy the quantity and quality of all materials to be used and all other items of work to be included in the contract and shall make a detailed estimate of the cost of the same. The quantities contained in such estimate shall be used in determining the cost of the work according to the different proposals received.

§ 22 Supervision of contracts

The corporation shall provide for field supervision over improvement, maintenance or repair work on the canal system that is done under contract. The corporation shall assign such engineers, inspectors and other engineering employees as may be necessary for control over the execution of the work embraced in the contract. Such corporation shall cause the preparation and approval of the estimates of the work accomplished, materials delivered, or other items embodied in the contract and the certificate of the amount of payment which may be due under the terms of the contract or legal modifications of the same. Upon the completion of any contract the corporation shall cause the preparation and approval of a certificate of acceptance, stating that the work has been well and faithfully performed in accordance with the terms and conditions of the contract and all legal modifications thereof.

§ 23 Record of measurements

The corporation shall require every engineer employed on canal engineering to enter in permanent field books a complete record of all surveys, field measurements and construction notes. These books shall be filed in the corporation and shall be available for public inspection under such conditions as the corporation may establish.

§ 24 Making and recording maps

There shall be kept on file in the office of the corporation complete maps of every canal now or hereafter to be built on which the boundaries of every parcel of land to which the state shall have a separate title shall

be designated and the names of the former owner and date of each title entered. All such maps heretofore approved by the commissioner of transportation or the corporation, or certified by such commissioner, corporation or by the state engineer or hereafter approved by the corporation to be correct, shall be presumptive evidence of the truth of the facts therein stated and of the ownership by the state of the lands therein described. Every such map when completed shall be approved and certified to as correct by the corporation. The original of said map shall be filed in the office of the corporation and copies thereof duly signed and certified as aforesaid shall be filed in the office of the department of state. Any such maps filed in the office of the clerk of a county in which such lands are located or in the office in such county where conveyances are required by law to be recorded shall constitute evidence to all persons of the state's title to and ownership in said lands. A transcript of such maps certified as correct by the officer with whom such map or maps shall be filed, shall be received as presumptive evidence of the state's title to the canal lands as of the date designated on such maps in all judicial or legal proceedings.

§ 25. Making and recording of "Blue Line" maps

The commissioner of transportation shall cause the preparation of maps of the Erie, Oswego, Champlain and the Cayuga and Seneca canals as they existed prior to and independent of lands appropriated for barge canal purposes and of all lands belonging to the state adjacent thereto or connected therewith, and there shall be designated on such maps the boundaries of the lands to which the state holds title, and so far as possible the names of the owners of the adjoining lands. Every map when completed shall be approved and certified to as correct by the commissioner of transportation and be certified to as correct by the chief engineer. The original of said map shall be filed in the office of the corporation and copies thereof, duly signed and certified as aforesaid, shall be filed in the office of the department of state. Each of said maps so filed shall be regarded as an original copy. A blue or white print copy of such map or portion of such map or maps as related or applies to any particular county of the state shall be transmitted to and filed in the office of the clerk of such county, or in the office in such county wherein conveyances are required by law to be recorded and such filing shall constitute a notice to all persons of the state's title to and ownership of said lands. A transcript of such maps certified as correct by the officer with whom such map or maps shall be filed shall be received as presumptive evidence of the state's title to the canal lands as of the date designated on such maps in all judicial or legal proceedings.

Article IV – Canal Contracts

§ 30. Contracts for improvement, maintenance or repair of the canal system

Upon the completion and final approval of the plans and specifications for the improvement, maintenance or repair to the canal system, contracts therefor shall be executed as provided herein.

1. Advertising for proposals. The corporation shall advertise for proposals in accordance with plans and specifications prepared by it for such improvement, maintenance or repair of the canal system as the corporation deems it expedient to have performed by contract. The advertisement shall be limited to a brief description of the work proposed to be done, with an announcement stating where the maps, plans and specifications may be seen, the terms and conditions under which the proposals will be received, the time and place where the same will be opened, the amount of the draft or certified check to accompany the proposal, and such other matters as the corporation may deem advisable to include therein. Such advertisement shall be published at least once in each week for two successive weeks in a newspaper published at the county seat of the county in which such canal work is to be performed and in such other newspapers as the corporation may designate. If no newspaper is published at such county seat, then the publication of the advertisement shall be in such newspaper or newspapers within the county as the corporation may select. If no newspaper is published in the county, the publication of the advertisement shall be in such newspaper or newspapers in an adjoining county as may be selected by the corporation. Failure of such newspaper, published in such county or adjoining county, to publish such advertisement as provided in this subdivision or as directed by the corporation shall not invalidate the publication of

advertisement for proposals provided such advertisement is published in another newspaper or trade publication, which will be most likely to give adequate notice to contractors of the work contemplated and of the invitation to submit proposals therefor, at least once in each week for any two successive weeks preceding the date on which proposals described in such advertisement are to be received and opened.

2. Proposals. Each proposal shall specify the correct gross sum for which the work will be performed and shall also include the amount to be charged for each item specified on the proposal estimate sheet. The corporation may prescribe and furnish forms for the submission of such proposals and may prescribe the manner of submitting the same which shall not be inconsistent herewith. Accompanying each proposal there shall be a certified check or bank cashier's check for the amount of the bid deposit, to be fixed by the corporation and specified in the advertisement for proposals. The checks of the two low bidders shall be deposited by the corporation in a special account. Provided, however, that if prior to or upon receipt of said checks by the corporation a bidder who is one of the two low bidders shall have duly filed a bond as hereinafter provided, the corporation shall forthwith return to said bidder his aforesaid check without depositing the same. If alternate proposals are taken, the checks of the two low bidders of all alternate proposals shall be deposited. All checks other than those of the two low bidders shall be returned promptly by the corporation. Notwithstanding the provisions of any general or special law, the money represented by the checks of the two low bidders shall be paid from the special account when the contractor has duly executed and delivered to the corporation the contract and the bond or bonds required by law for the performance of the work of a public improvement for the state of New York, or upon the rejection of all bids. The low bidder, in the discretion of the corporation, and the second low bidder, as a matter of right, may at any time after the opening of the respective proposals, file with the corporation a bond, the principal amount of which shall at least equal the amount of the respective bidder's check, theretofore deposited with his proposal, in the form prescribed by the corporation, with sufficient sureties, to be approved by the corporation, conditioned that the said bidder will execute a contract and furnish such performance or other bonds as may be required by law in accordance with the terms of the bidder's said proposal. If a bidder complies with the aforesaid provisions, the corporation shall forthwith return the money represented by the check of such bidder.

In case the bidder to whom the contract shall be awarded shall fail to execute such contract and bond, the moneys represented by such check shall be regarded as liquidated damages and shall be forfeited to the state and shall be deposited by the corporation with the commissioner of taxation and finance to the credit of the general fund. The gross sums indicated on the proposals when opened shall be publicly read. The corporation shall keep the bids for the several items of the proposals confidential until an award of the contract is made, after which the proposals shall be subject at all reasonable times to public inspection.

3. Award of contract. The contract for the improvement, maintenance or repair of any part of the canal system shall be awarded to the lowest responsible bidder, as will best promote the public interest. No contract shall be awarded to a bidder other than the lowest responsible bidder without the written approval of the comptroller. The lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, including all the items specified in the estimate therefor. The lowest bid shall be determined by the corporation on the basis of the gross sum for which the entire work will be performed, arrived at by a correct computation of all the items specified in the estimate therefor at the unit prices contained in the bid.

4. Rejection of proposals. The corporation may reject any or all proposals and may advertise for new proposals as provided in this section, if, in its opinion, the best interest of the state and the corporation will thereby be promoted.

5. Form of contract. The corporation shall prescribe the form of contract and may include therein such matters the corporation may deem advantageous to the state and the corporation.

6. Bond of contractor. Each contractor before entering into a contract for such improvement, maintenance or repair of the canal system shall execute a bond in the form prescribed by the corporation, with sufficient sureties, to be approved by the corporation, on condition that it will perform the work in accordance with the terms of the contract and the plans and specifications, and that it will commence and complete the work within the time prescribed in the contract. The bond shall also provide against any direct or indirect damages that shall be suffered or claimed on account of such construction or improvement during the time thereof, and until the work is finally accepted.

7. Payments on contracts, state taxes. The contract shall provide for partial payments as the work progresses as hereinafter provided:

(a) Ten per centum shall be retained from each progress payment or estimate until the contract work is fifty per centum completed, after which no further moneys shall be retained from any progress payments or estimates paid thereafter, and when the entire contract work has been completed and accepted, the corporation shall, pending the payment of the final estimate, pay not to exceed fifty per centum of the amount of the retained percentage.

(b) Whenever in the judgment of the corporation the withholding of the retained percentage on account of the closing of the working season would be an injustice to the contractor, the corporation may, provided the district engineer certifies that the essential items in the contract have been completed in accordance with the terms of the contract and the provisions of this chapter, direct the district engineer to include in the final account such uncompleted items and pay therefor at the item prices in the contract upon the contractor depositing with the corporation securities equal to double the value of such uncompleted work. The deposit may be used by the corporation to complete the uncompleted portion of the contract and shall be returned to the contractor if it completes the uncompleted portion within a specified number of working days after it has been notified to proceed with the work.

(c) No certificates approving or authorizing a partial or final payment shall be made by the corporation until it is satisfied that all laborers employed on the work have been paid for their services for the last payroll period preceding the said partial or final payment. The corporation may, if it deems necessary, require an affidavit to such effect from the contractor or it may depend on any other source which it deems proper for such information.

(d) Contracts in force at the date of the enactment of this subdivision may, in the discretion of the corporation, be amended to provide for the withholding and the payments contemplated by the provisions of paragraph (a) of this subdivision, if the surety or sureties upon the performance and labor and material bonds given by a contractor upon any such contract shall consent in writing thereto.

(e) No such certificate authorizing or approving the first partial payment or any final payment to a foreign contractor shall be made unless such contractor shall furnish satisfactory proof that all taxes due the commissioner of taxation and finance by such contractor under the provisions of or pursuant to a law enacted pursuant to the authority of article nine, nine-A, twelve-A, twenty-one, twenty-two, twenty-eight, twenty-nine or thirty of the tax law have been paid. The certificate of the commissioner of taxation and finance to the effect that all such taxes have been paid shall be, for purpose of this paragraph, conclusive proof of the payment of such taxes. The term "foreign contractor" as used in this subdivision means, in the case of an individual, a person who is not a resident of this state, in the case of a partnership, one having one or more partners not a resident of this state, and in the case of a corporation, one not organized under the laws of this state.

8. Contingencies and extra work. Whenever the corporation determines that from any unforeseen cause the terms of any contract should be altered to provide for contingencies or extra work, it may, if funds are

available for payment of the cost thereof, issue an order on contract therefor to the contractor, a copy of which shall be filed with the director of the budget and the state comptroller. The estimated expenditure pursuant to the order on contract shall not increase the total amount of the primary contract until the estimated expenditure shall have been approved by the corporation and a duplicate of such approval shall have been filed with the comptroller. No such extra work shall be commenced or undertaken until the corporation has issued an order on contract as herein provided.

When such order on contract provides for similar items of work or materials which increase or decrease the itemized quantity provided for in the primary contract, the price to be paid therefor shall not exceed the unit bid price in the primary contract for such items. Agreed prices for new items of work or materials may be incorporated in the order on contract as the corporation may deem them to be just and fair and beneficial to the state, including the corporation.

Whenever the corporation also determines that in the cases herein provided it is impracticable for it to ascertain in advance the just and fair prices to be paid by the state for new items of work or materials, the order on contract therefor may provide for performance of the work and the furnishing of the materials and equipment, in which event the contractor shall keep and shall make available at all times to the corporation such accounting records, data and procedure as may be required by the corporation.

§ 31 Patented materials or articles

In the improvement, maintenance, or repair of the canal system, no patented material or article or any other material or article shall be specified, contracted for, or purchased, except under such circumstances that there can be fair and reasonable opportunity for competition, the conditions to secure which, shall be prescribed by the corporation.

§ 32 Performance of contracts

The performance of every contract for the improvement, maintenance or repair of the canal system shall be under the supervision and control of the corporation, and it shall be its duty to see that every such contract is performed in accordance with the provisions of the contract and with the plans and specifications forming a part thereof. If the corporation shall determine that the work upon any contract for the improvement, maintenance or repair of the canal system is not being performed according to the contract or for the best interest of the state, including the corporation, the execution of the work by the contractor may be temporarily suspended by the corporation, who may then proceed with the work under its own direction in such manner as will accord with the contract specifications and be for the best interest of the state including the corporation; or it may terminate the contractor's employment under the contract while it is in progress, and thereupon, proceed with the work, in affirmance of the contract, by contract negotiated or publicly let, by the use of its own forces, by calling upon the surety to complete the work in accordance with the plans and specifications or by a combination of any such methods; or it may cancel the contract and readvertise and relet the work as provided in section thirty of this article. Any excess in the cost of completing the contract beyond the price for which it was originally awarded shall be charged to and paid by the contractor failing to perform the work or by such contractor's surety. Where the estimate for the completion of a cancelled contract is in excess of the balance of the amount originally set aside by the state including the corporation, to provide for the improvement, maintenance or repair of the canal system, or a part thereof, together with any amount otherwise provided, the corporation is authorized to set aside from any funds available for the improvement, maintenance or repair of the canal system, or a part thereof, an additional sum equal to such excess and to pay such excess in the first instance, pending recovery of excess cost from the defaulting contractor and surety, as provided in this section. Every

contract for the improvement, maintenance or repair of the canal system, or a part thereof, shall reserve to the corporation the right to suspend or cancel the contract as above provided, and to complete the work thereunder by contract negotiated or publicly let or by the use of its own forces, or affirm the contract and thereupon to complete the work thereunder according to any of the methods above provided as the corporation may determine.

§ 33 Acceptance of work

Upon the completion of the improvement, maintenance or repair of any part of the canal system under a contract let, as provided in this article, the corporation shall cause the same to be inspected, and upon the filing in the office of the corporation of a certificate stating that the work has been well and faithfully performed, in accordance with the terms of the contract, and all legal modifications thereof, the work shall be deemed accepted and certificates for final payment on the contract executed.

§ 34 Exemption of materials or equipment from execution

All materials or equipment furnished or partly procured on a defaulted contract with the corporation, shall be exempt from execution, but the corporation shall pay the moneys due for such material or equipment to any judgment creditor of the contractor under whose execution such materials or equipment might otherwise have been sold, on production to it of due proof that such execution would have so attached, and such payments shall be valid payments on the contract.

§ 35 Certain federal aid improvements

This article shall not impair nor affect provisions of chapter six hundred eighty-eight of the laws of nineteen hundred thirty-four which authorize and direct compliance with the federal laws, rules, regulations and conditions which govern contracts and expenditures for the canal improvements authorized or prosecuted by or under such chapter, with financial aid from the federal government; and this article shall apply to such improvements and to contracts therefor only in so far as it is consistent with such provisions.

Article V – Acquisition of Property for the Canal System

§ 40. Acquisition of property

1. The acquisition of property necessary for purposes of the improvement, use, maintenance, control, management or repair of the canal system, shall be pursuant to the provisions of the eminent domain procedure law by the corporation or by the commissioner of transportation at the request of the corporation.
2. The commissioner of transportation or the corporation as the case may be, shall cause to be prepared an accurate acquisition map of any property which he or it may deem necessary for purposes connected with the canal system or of any property in and to which he or it may deem the acquisition or exercise of an easement, interest or right to be necessary for such purposes, indicating and describing in each case the particular easement, interest or right. On the approval of such map by the commissioner of transportation or the corporation as the case may be, he or it shall acquire such property, easements, interests or rights pursuant to the provisions of the eminent domain procedure law.

3. If the corporation shall determine, prior to the filing of such copy of the map in the office of the county clerk or register as aforesaid, that changes, alterations or modifications of such map as filed in the main office of the corporation should be made, the corporation shall, subject to the provisions of article two of the eminent domain procedure law, if applicable, direct the preparation of an amended map, either by preparing a new map or by making changes on the original tracing of such map, with a notation indicating such changes. On the approval of such amended map by the corporation, it shall be filed in the main office of the corporation in the same manner as the original map was filed, and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed.

4. If the corporation shall determine, prior to the filing of such copy of the map in the office of the county clerk or register as aforesaid, that such map should be withdrawn, the corporation shall file a certificate of withdrawal in the offices of the corporation and department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be canceled and all rights thereunder shall cease and terminate.

5. The commissioner of transportation or the corporation as the case may be, shall deliver to the attorney general a copy of such acquisition map whereupon it shall be the duty of the attorney general to advise and certify to the commissioner of transportation or the corporation the names of the owners of the property, easements, interests or rights described in the said acquisition map, including the owners of any right, title or interest therein pursuant to the requirements of section four hundred three of the eminent domain procedure law.

6. If, at or after the vesting of title to such property in the people of the state of New York as provided for in the eminent domain procedure law, the commissioner of transportation or the corporation as the case may be shall deem it necessary to cause the removal of an owner or other occupant from such property it may cause such owner or other occupant to be removed therefrom by proceeding in accordance with section four hundred five of the eminent domain procedure law. The proceedings shall be brought in the name of the commissioner of transportation or the corporation as agent of the state. If any person proceeded against shall contest the petition by an answer, the attorney general shall be notified, and he thereafter shall represent the petitioner in the proceedings. No execution shall issue for costs, if any awarded against the state, the commissioner of transportation or the corporation, but they shall be part of the costs of the acquisition and be paid in like manner. Proceedings may be brought separately against one or more of the owners or other occupants of a property, or one proceeding may be brought against all or several of the owners or other occupants of any or all property within the territorial jurisdiction of the same justice or judge; and judgment shall be given for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any, without awaiting the trial or decision of issues raised by contestants, if any.

7. Upon making any agreement provided for in section three hundred four of the eminent domain procedure law, the commissioner of transportation or the corporation as the case may be shall deliver to the comptroller such agreement and a certificate stating the amount due such owner or owners thereunder on account of such appropriation of his or their property and the amounts so fixed shall be paid pursuant to all relevant provisions of the public authorities law, the eminent domain procedure law and the state finance law.

8. Application for reimbursement of incidental expenses as provided in section seven hundred two of the eminent domain procedure law shall be made to the corporation upon forms prescribed by the corporation and shall be accompanied by such information and evidence as the corporation may require. Upon approval of such application, the corporation shall deliver a copy thereof, to the comptroller together with a certificate stating the amount due thereof, and the amount so fixed shall be paid out of funds available for the acquisition of property under this section.

9. The corporation shall establish and may from time to time amend rules and regulations authorizing the payment of actual reasonable and necessary moving expenses of occupants of property acquired pursuant to this section; of actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the corporation; and actual reasonable expenses in searching for a replacement business or farm; or in hardship cases for the advance payment of such expenses and losses. For the purposes of making payment of such expenses and losses only the term “business” means any lawful activity conducted primarily for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Such rules and regulations may further define the terms used in this subdivision. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of residential property may elect to accept a moving expense allowance, plus a dislocation allowance, determined in accordance with a schedule prepared by the corporation and made a part of such rules and regulations. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of commercial property who relocates or discontinues his business or farm operation may elect to accept a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business, no such fixed relocation payment shall be made unless the corporation finds and determines that the business cannot be relocated without a substantial loss of its existing patronage, and that the business is not part of a commercial enterprise having at least one other establishment, which is not being acquired by the state or the United States, which is engaged in the same or similar business. In the case of a business which is to be discontinued but for which the findings and determinations set forth above cannot be made, the corporation may prepare an estimate of what the actual reasonable and necessary moving expenses, exclusive of any storage charges, would be if the business were to be relocated and enter into an agreed settlement with the owner of such business for an amount not to exceed such estimate in lieu of such actual reasonable and necessary moving expenses. Application for payment under this subdivision shall be made to the corporation upon forms prescribed by it and shall be accompanied by such information and evidence as the corporation may require. Upon approval of such application, the corporation shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. As used in this subdivision the term “commercial property” shall include property owned by an individual, family, partnership, corporation, association or a nonprofit organization and includes a farm operation. As used in this subdivision the term “business” means any lawful activity, except a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing or marketing of products, commodities, or any other personal property; for the sale of services to the public; or by a nonprofit organization.

10. Authorization is hereby given for the reimbursement to the person or other entity entitled thereto, as determined by the corporation, of an amount, separately computed and stated, representing the following incidental expenses to the owner of property acquired pursuant to this section:

(a) Any recording fees, transfer taxes and other similar expenses in connection with the acquisition of the property by the state, including the corporation, or in connection with the transfer of the property to the state, including the corporation; and

(b) Any penalty costs, incurred by the owner of property acquired by the state, including the corporation, for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering such property.

In the event that there shall be a final judgment by a court of competent jurisdiction that the commissioner of transportation or the corporation as the case may be, was not legally authorized to acquire property, or a portion of such property, pursuant to this section; or the commissioner or the corporation denies that there was any taking of property, makes no offer to settle the value of the claim for such property and there shall be a final judgment by a court of competent jurisdiction that the commissioner or the corporation did in fact take such property; or the procedure to acquire such property is abandoned by the commissioner or the corporation; authorization is hereby given for the reimbursement to the person or other entity entitled thereto, as determined by the commissioner or the corporation, of an amount, separately computed and stated, for reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred by such person or other entity because of the acquisition procedure.

Application for either of such reimbursements shall be made to the corporation upon forms prescribed by it and shall be accompanied by such information and evidence as the corporation may require. Upon approval of such application, the corporation shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of funds available for this purpose.

11. Authorization is hereby given to the corporation to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired pursuant to this section who are entitled thereto, as determined by such corporation. The corporation may establish and from time to time amend rules and regulations providing for such supplemental relocation payments. Such rules and regulations may further define the terms used in this subdivision. In the case of property acquired pursuant to this section which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such payment to such owner shall not exceed fifteen thousand dollars. Such payment shall be the amount, if any, which, when added to the acquisition payment equals the average price, established by the corporation on a class, group or individual basis, required to obtain a comparable replacement dwelling that is decent, safe and sanitary to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of the replacement dwelling. Such payment shall include an amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. Any such mortgage interest differential payment shall, notwithstanding the provisions of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the requirements of such section. Such payment shall include reasonable expenses incurred by such displaced owner for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses. Such payment shall be made only to a displaced owner who purchases

and occupies a replacement dwelling which is decent, safe and sanitary within one year subsequent to the date on which he is required to move from the dwelling acquired pursuant to this section or the date on which he receives from the state final payment of all costs of the acquired dwelling, whichever occurs later, except advance payment of such amount may be made in hardship cases. In the case of property acquired pursuant to this section from which an individual or family, not otherwise eligible to receive a payment pursuant to the above provisions of this subdivision, is displaced from any dwelling thereon which has been actually and lawfully occupied by such individual or family for not less than ninety days immediately prior to the initiation of negotiations for the acquisition of such property, such payment to such individual or family shall not exceed four thousand dollars. Such payment shall be the amount which is necessary to enable such individual or family to lease or rent for a period not to exceed four years, a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his place of employment, but shall not exceed four thousand dollars, or to make the down payment, including reasonable expenses incurred by such individual or family for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, but shall not exceed four thousand dollars, except if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment. Such payments may be made in installments as determined by the corporation. Application for payment under this subdivision shall be made to the corporation upon forms prescribed by such corporation and shall be accompanied by such information and evidence as the corporation may require. Upon approval of such application, the corporation shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of funds available for such purpose.

12. The owner of any property, easements, interests or rights appropriated, may present to the court of claims a claim for the value of such property appropriated and for legal damages as provided by law for the filing of claims with the court of claims. Payment of such awards and judgments of the court of claims shall be made in the manner now prescribed by law.

13. If the work of improvement, maintenance, control, management or repair of the canal system causes damage to property not acquired as above provided, the state shall be liable therefor, but this provision shall not be deemed to create any liability not already existing by statute. Claims for such damage may be adjusted by the corporation, if the amounts thereof can be agreed upon with the persons making such claims, and any amount so agreed upon shall be paid as a part of the cost of such improvement, maintenance, control, management or repair as prescribed by this section. If the amount of any such claim is not agreed upon, such claim may be presented pursuant to the eminent domain procedure law to the court of claims which is hereby authorized to hear such claim and determine if the amount of such claim or any part thereof is a legal claim against the state, and, if it so determines, to make an award and enter judgment thereon against the state, provided, however, that such claim is filed with the court of claims within three years after the accrual of such claim.

14. Notwithstanding any other provision of this section, the corporation or the commissioner of transportation at the request of the corporation shall have the power to acquire by grant or purchase, in the name of the people of the state of New York, any property which he or the corporation deems necessary for any of the purposes provided for in this section, and payment therefor, if any, shall be made in the manner prescribed in this section for the payment of adjusted appropriation claims, provided, however, that no real property shall be so acquired unless the title thereto shall be approved by the attorney general.

15. The expense of the acquisition of property, including the cost of making surveys, preparing descriptions and maps of property to be acquired, and of administrative duties in connection therewith, serving notices of appropriation, publication, making appraisals and agreements and of searches ordered and examinations and readings and approval of titles made by the attorney general, and expenses incurred by the corporation or the commissioner of transportation at the request of the corporation and attorney general in proceedings for the removal of owners or occupants, shall be deemed a part of the cost of operation of the respective offices where such employees are engaged or of the department having charge of such matters and shall be paid from moneys appropriated for the operation of such offices. If a special fund has been set up to provide for the acquisition of property, then such expense involved may be made payable from such fund.

16. Notwithstanding the provisions of any general, special or local law, the corporation or the commissioner of transportation at the request of the corporation, his or its officers, agents or contractors when engaged on work connected with the canal system, as described in subdivision one of this section, may, pursuant to the provisions of the eminent domain procedure law, enter upon any property for the purpose of making surveys, test pits, test borings, or other investigations and also for temporary occupancy during construction. Claims for any damage caused by such entry, work or occupation not exceeding two thousand five hundred dollars may be adjusted by agreement by the corporation or the commissioner of transportation at the request of the corporation with the owner of the property affected as determined by him or such corporation by reasonable investigation without appropriating such property. Upon making any such adjustment and agreement, the corporation or the commissioner of transportation shall deliver to the comptroller such agreement and a certificate stating the amount due such owner and the amount so fixed shall be paid out of the funds available for such purpose.

17. If the corporation shall determine subsequent to the acquisition of a temporary easement right in property and subsequent to the filing of a description and map of such property in the office of the county clerk or register, as aforesaid, that the purposes for which such easement right was acquired have been accomplished and that the use and occupancy of said property for canal purposes are no longer necessary, and that, therefore, the term of such easement should be further limited, or if the appropriation of such easement was for an indefinite period, that such period should be fixed and determined, or that the period of such easement has by its terms expired, the corporation shall make its certificate that the use and occupancy of such property for canal purposes are no longer necessary, that the property in which such easement right was acquired is surrendered back to the affected owner of said property and that such easement right is thereupon terminated, released and extinguished. The corporation shall cause a copy of such certificate to be filed in the office of the department of state. Upon the filing of such certificate in the office of the department of state all rights acquired by the state in such property shall cease and determine. The corporation shall cause a copy of such certificate together with notice of the filing thereof in the office of the department of state to be mailed to the owner or owners of the property affected, as certified by the attorney general, if the place of residence of such owner or owners is known or can be ascertained by a reasonable effort. A further copy of such certificate and notice of filing shall be filed in the office of the recording officer of each county wherein the property affected is situated. On the filing of such certificate and notice with such officer it shall be the duty of such officer to record same in the books used for recording deeds in the office of such officer.

18. Notwithstanding any other provision of this section, the corporation shall have the power to acquire by grant or purchase, in the name of the people of the state of New York, any property which it deems necessary for any of the purposes provided for in this section and may also acquire for such purposes from the Palisades interstate park commission, in the name of the people of the state of New York, such lands and such easements, licenses, permits and other rights over lands as the said commission is authorized to grant, sell, exchange or convey. When the acquisition by appropriation, grant or purchase of property deemed necessary for canal purposes would result in substantial consequential damages to the owner's remaining

property, due to loss of access, severance or control of access, the corporation, for and on behalf of the people of the state of New York, may acquire by purchase or grant all or any portion of such remaining property. Payment therefor, if any, shall be made in the manner prescribed in this section for the payment of adjusted appropriation claims, provided, however, that no real property shall be so acquired unless the title thereto shall be approved by the attorney general.

§ 41 Acquisition of cemeteries

Whenever in the judgment of the corporation, it is necessary for the purposes of improving, maintaining or repairing the canal system, to appropriate any property occupied by graves, burial places, cemeteries or other places of interment of human remains, the corporation may acquire such property in the manner and by the method prescribed by this article. It shall cause the removal of all such remains to any other cemetery or burial place, whether private or public, as the board of trustees or governing body of such burial place or burial ground shall designate. All removals and transportation of such human remains shall be done in accordance with the provisions of the public health law. Whenever any person or persons legally entitled to direct as to the disposition of any human remains exhumed or to be exhumed from any cemetery, burial place or graves as herein provided, desires to remove the same for reinterment to any burial plot or cemetery not within the same county from which such remains were exhumed, such person or persons so entitled to designate such other burial place or plot shall be permitted to remove such exhumed remains from such county subject to the written consent of the corporation and provisions of the public health law, but no portion of the expense of such transportation or burial in another county shall be borne by the state or the corporation.

§ 42 Removal of encroachments

The corporation is authorized to cause to be removed from canal property any building, part of a building or structure erected, placed, maintained or otherwise occupying such canal property, if, in its opinion, the removal is necessary for the improvement, use, maintenance, control, management, repair or operation of the canal system. It shall be the duty of any person owning or maintaining such a building, part of a building or structure to remove the same within thirty days from the service by the corporation upon said person of a notice ordering its removal. Upon the failure of the person so ordered to remove the building, part of a building or structure, the corporation may, without liability on the part of the state or the corporation, take whatever action it may deem necessary to cause the removal. Service of the order of removal must be personal if the person to be served can be found within the state. If the corporation shall not be able to serve such notice or cause the same to be served on the said person within the state after making a reasonable effort so to do, service may be made by attaching such notice to the said building, part of a building or structure.

§ 43 Exchange of property

In order to facilitate the acquisition of property as defined in this article, and which, in the judgment of the corporation, will be in the public interest and necessary for canal purposes, payment for such property may be made by means of an exchange therefor of property found to be no longer necessary or useful as a part of the barge canal system, or as an aid to navigation thereon, or for barge canal terminal purposes. The property to be so acquired shall be of at least equal value to that of such property to be exchanged. The corporation is authorized and empowered to enter into an agreement with the owner or owners of such property to be so acquired, upon such terms and conditions as to such corporation shall seem appropriate and proper to accomplish such purpose.

In all such cases, the property so to be exchanged shall first be declared abandoned by official order of the corporation which order shall set forth the benefits to be obtained by such exchange. In such abandonment it shall be unnecessary to conform to the provisions for abandonment made in section fifty-one of this chapter. The agreement and the title to the property to be acquired shall be subject to the approval of the attorney-general. Upon the approval of title by the attorney-general, the corporation is authorized and empowered to execute in the name of the people of the state of New York, a quit-claim deed to effectuate such exchange, which shall be subject to the approval of the attorney-general. The deed so executed, before becoming effective, shall be recorded in the office of the secretary of state. Compensation on account of excess value if any, of the lands so acquired shall be adjusted and paid in the manner provided by section forty of this article, as in the case of property taken by appropriation.

§ 44. When applied

The provisions of this chapter shall not affect any proceeding or appropriation now pending for the acquisition of any property for the purposes of the canal system of the state of New York, and any such proceeding or appropriation shall be continued to termination pursuant to the statute under which such proceeding or appropriation was instituted.

Article VI – Abandonment of Canal Lands

§ 50. Authority to abandon canal lands

1. Authority is hereby conferred upon the corporation to abandon any portion of barge canal lands, barge canal terminal lands, or old canal lands and appertaining structures constituting the canal system prior to the barge canal improvement, which have or may become no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes. This authority, however, shall not include the abandonment of a barge canal terminal unless such terminal has been by a special act of the legislature previously determined to have become no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes.

2. Abandonments authorized pursuant to this section shall be subject to the provisions of subdivision seventeen of section ten of this chapter.

§ 51. Method of abandonment

Prior to the exercising of such authority of abandonment, however, the corporation shall cause a notice of any proposed abandonment to be transmitted to the commission and to be published once each week for three successive weeks in a newspaper published in the county wherein such lands are located, except that such publication shall appear in a newspaper published in the municipality or locality wherein such lands are located when there is a newspaper published in such municipality or locality. Such notice shall describe the lands proposed to be abandoned with sufficient certainty to identify them and invite interested parties to file written statements either supporting or opposing the proposed abandonment. Upon the expiration of the period of publishing said notice, when it is the case that the assessment for such lands proposed for abandonment is equal to or greater than fifty thousand dollars, the corporation shall hold a hearing at which evidence or further information may be submitted. A record shall be made of all evidence submitted at such hearing. If no hearing shall appear to the corporation to be warranted or subsequent to such hearing, should one be held, the corporation may in its discretion declare such lands abandoned for the purposes of the canal system. The corporation shall thereupon issue an official order abandoning the lands for canal purposes together with a map and description of the lands

abandoned and dispose of any portion of canal lands so abandoned. Any money realized from the sale of such land shall be deposited into the canal fund.

§ 52 When applied

Notwithstanding the provisions of any existing general or special acts, the procedure in abandonment of canal lands shall hereafter be in accordance with the provisions set forth in this chapter.

§ 53 Sale of abandoned lands for railroad bridges

Whenever any canal lands, as defined in article one of this chapter, are required in connection with any railroad bridge which has been or which is to be constructed, reconstructed or raised by or for a railroad corporation over that portion of the barge canal, which has been or which will be improved by the use of moneys allotted or to be allotted to the state by the federal government in accordance with chapter six hundred eighty-eight of the laws of nineteen hundred thirty-four, the corporation may issue an official order abandoning the lands for canal purposes. Upon a written request by the railroad corporation, and notwithstanding the provisions of any general or special law, the corporation is authorized to grant and convey such land to said railroad corporation for and on behalf of the people of the state of New York for the purposes mentioned and for a nominal or other consideration and upon such terms and conditions which he shall deem to be beneficial to the state. Such instrument of grant and conveyance shall become effective when it is recorded in the office of the secretary of state. Any moneys realized from the sale of such land shall be deposited into the canal fund.

§ 54 Abandonment and sale of hydropower easements; agreements with hydropower developers

1. Notwithstanding subdivision two of section three or section fifty of the public lands law or section fifty, fifty-one or fifty-two of this article, upon request of a person licensed under Part I of the Federal Power Act (16 USC § 791a-823a) to develop and operate a hydropower project at a site on the barge canal system, the corporation may adopt an order abandoning a hydropower easement in barge canal system lands and waters which are within the boundaries of such federally licensed project, upon finding the property rights under such easement to be no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes. Upon adoption of such order, and with the approval of the governor, the corporation may sell and convey such easement at private sale to such licensed developer. Such hydropower easements shall be sold for a price to be determined by the corporation taking into consideration the value of obligations to be assumed by such licensed developer, the value of the rights granted to such developer to use canal system lands, waters and facilities for hydropower project purposes and any other appropriate factors.

2. Any hydropower easement abandoned, sold and conveyed pursuant to subdivision one of this section shall be limited as follows:

(a) The easement shall convey only those rights necessary and convenient for the development and generation of hydropower pursuant to the provisions of the applicable federal hydropower license and only within the boundaries of the hydropower project as licensed.

(b) The easement shall be subservient to the fee retained by the state.

(c) The easement shall not give the owner the right to interfere with, either by act or omission, the management and control by the state, through the corporation, of the barge canal system.

(d) The easement shall provide that it shall revert to the state under terms and conditions to be determined by the corporation in the event that the site ceases to be used for purposes of hydropower development and generation.

3. The corporation may also enter into agreements with such a licensed developer regarding the division of maintenance responsibility for structures, facilities or other property which serve both hydropower generation and barge canal system purposes and regarding other matters concerning joint operation at the site. Such agreements may provide for the payment to the corporation of reasonable compensation for services rendered by the corporation which assist or otherwise further the development of hydropower on the barge canal system. In addition, the corporation, subject to the approval of the director of the budget, may enter into a written agreement with a licensed developer or operator at any site concerning the sharing of costs for a major capital improvement or improvements at such site. Should the contract for such improvement or improvements be let and awarded by the corporation, the state comptroller is authorized to receive and accept from the developer or operator, the sum or sums specified in such agreement and to disburse the same along with state funds appropriated for the purpose of such capital improvement or improvements.

4. Any revenue realized from the sale or lease of hydropower easements shall be deposited into the canal fund.

Article VI-a - Leasing of Canal Lands

§ 55. Authority to lease land

1. The corporation is hereby authorized, after review and comment by the commission as to consistency with the canal recreationway plan approved pursuant to section one hundred thirty-eight-c of this chapter and section three hundred eighty-two of the public authorities law, to enter into leases of canal lands, canal terminals, and canal terminal lands which are consistent with the canal recreationway plan. Such review and comment shall be provided within the time period set forth in the procedures of the commission established pursuant to section one hundred thirty-eight-b of this chapter which shall be no more than sixty days.

2. Lands to be leased shall be determined by the corporation to have no essential purpose for navigation.

3. Leases of canal lands, canal terminals and canal terminal lands shall be for purposes which are consistent with the New York state canal recreationway plan approved pursuant to section one hundred thirty-eight-c of this chapter and section three hundred eighty-two of the public authorities law.

4. The corporation shall consider fully completed applications for leases of canal lands, canal terminals and canal terminal lands in such form and manner as the corporation shall prescribe.

5. Canal lands, canal terminals and canal terminal lands within the Adirondack park shall not be leased.

6. The corporation shall provide assistance, including reasonable access to lands, as may be necessary to assist potential applicants in preparing an application.

7. The corporation may require an applicant for a lease to provide necessary property surveys, environmental studies, maps and photographs, site plans and such other documents and studies as the corporation may determine to be necessary to ascertain the compatibility of proposed development with the New York state canal recreationway plan and for the corporation to select a qualified lessee.

8. Revenues realized from the lease of canal lands, canal terminals and canal terminal lands shall be deposited into the canal fund.

§ 56. Conditions and terms of leases

Leases for canal lands, canal terminals and canal terminal lands shall include:

1. the period of time for such leases, provided that the initial term of such leases may not exceed forty years, and renewals of such leases may not exceed an additional forty years beyond such initial terms;
2. requirements that the lessee take no actions or construct no improvements that will interfere with navigation, except that if the corporation determines that any potential adverse interference with navigation can be reasonably mitigated, the corporation shall include in the lease such requirements as may be necessary to effectuate mitigation of impediments to navigation;
3. proper covenants to assure the payment of adequate consideration for the interests leased, and to further protect the state and the corporation as is deemed necessary by the corporation;
4. provisions requiring that payments on the lease shall be paid to the corporation;
5. provisions relating to public access, where feasible, to lands and waters of the canal system; provided however that the corporation may require that public access be restricted in those cases where the corporation determines that public safety will be served by such restriction;
6. provisions providing a right of entry for commission and corporation members and personnel and equipment for canal purposes; and
7. such other terms as the corporation shall determine are necessary and appropriate for the implementation of this article and the preservation of the state's interest in the canal system.

§ 57. Special conditions for leases entered prior to approval of canal recreationway plan

1. In the period between the effective date of this section and the completion of the canal recreationway plan, the commission shall review and comment on proposed leases with respect to the consistency of such leases with the provisions of this article. Where local zoning laws and zoning ordinances are in effect on lands proposed to be leased or on lands adjacent to those lands proposed to be leased, during such period the commission shall also review and comment on proposed leases with respect to the compatibility of such leases, to the extent practicable, with the requirements of such local zoning laws and zoning ordinances.
2. In addition to the other applicable provisions of this article, the corporation shall ensure that: (a) the lease will benefit the canal system by effectuating the development of the canal as a recreationway; (b) the lease will foster a canal system characterized by clusters of development and stretches of undeveloped open space which is conducive to the preservation of waterfowl, fish and wildlife habitats; and (c) may encourage the use of historic buildings, sites and districts listed on or eligible for the state or national registers of historic places.

Article VII – Bridges and Highways

§ 60 Alteration of county roads or town highways

Whenever the commissioner of transportation shall deem it necessary to discontinue or alter any part of a county road or town highway because of its interference with the proper location or construction of any work on the canal system either of improvement, maintenance, or repair he shall direct such discontinuance or alteration to be made and file in the office of the clerk of the county or town in which such road or highway is situate. An accurate description of the part of such road or highway so discontinued and of the one laid out anew. From the time of filing such description such road or highway shall be considered so altered. The use of such old road or highway shall not be discontinued until the new road or highway is declared open for public use by the commissioner of transportation, and a certificate to such effect filed in the office of the clerk of the county or town in which said road or highway is located. Every alteration made on any public road located upon the canal system before the first day of January, nineteen hundred and thirty-nine shall be deemed valid in law from the time of such alteration.

§ 61 Farm and road bridges

The commissioner of transportation is authorized and required to maintain until April first, nineteen hundred fifty-four, at public expense farm, road and street bridges over the canal system, in all places where such bridges were constructed prior to the twentieth day of April, eighteen hundred thirty-nine, if, in his opinion, the public convenience requires that they should be continued, whether heretofore maintained at the expense of the state or of the counties, towns, villages and cities where they are situate, provided, however, that commencing on the first day of April, nineteen hundred fifty-four, and continuing thereafter, the maintenance, repair, improvement, replacement or closing of any such bridge over any section of the canal heretofore abandoned or which may hereafter be abandoned shall be governed by the provisions of the highway law, except that any such bridges situate in a city shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the same provisions of law as apply to other streets and bridges in such city.

§ 62 Maintenance by state of certain bridges over the canal system

All highway or pedestrian, lift or movable bridges over the canal system other than highway bridges connecting parts of a state highway heretofore constructed as a part of the barge canal improvement shall be reconstructed, improved, maintained and repaired at the expense of the state, if in the opinion of the commissioner of transportation, the public convenience requires such bridges to be maintained where no alternate crossing has been provided. In the event the commissioner of transportation determines that any such bridge is no longer required for the convenience of the public, he shall have power to close, remove or relocate such bridge. The commissioner of transportation shall have the supervision and direction of such reconstruction, improvement, maintenance, repair, closing, removing or relocation. All bridges over the canal system other than lift, movable, pedestrian or state highway bridges heretofore constructed as part of the barge canal improvement shall be reconstructed, improved, maintained and repaired at the expense of the state under the supervision and direction of the commissioner of transportation, if, in his opinion, the public convenience requires that each such bridge shall be continued as a bridge for highway traffic. In the event the commissioner of transportation is requested by any municipality to reconstruct or improve any such bridge, he is hereby empowered to do so, provided, however, that prior to such reconstruction or improvement the municipality enters into a written agreement that such bridge thereafter shall become a part of the highway system or systems which it may connect and the maintenance, repair, improvement, replacement or closing of any such bridge shall be governed by the provisions of the highway law, except that any such bridges situate in a city shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the provisions of any special law which may apply or to the same provisions of law as apply to other streets and bridges in such city or in the case of such

bridges situate in a village, such bridges shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the same provisions of law as apply to other streets and bridges in such village. Any bridge over the New York state canal system or abandoned part thereof which joins parts of a state highway shall be under the jurisdiction of the commissioner of transportation and deemed to be part of the state highway system and such bridges shall be constructed, reconstructed, improved, maintained, repaired, closed or relocated pursuant to the provisions of the highway law and the cost of such work shall be paid from moneys available for construction, reconstruction, improvement, maintenance or repair of state highways.

§ 63 Maintenance by state of alteration to certain highway bridges not state owned

When in the canalization of a natural waterway to form a part of the canal system it has been or may be necessary to alter an existing highway bridge spanning the canalized portion of the waterway, the maintenance and repair of the additional or new part or parts of such bridge structure which may have been or may be necessary in altering the bridge to meet the requirements of navigation, shall be an obligation of the state. The commissioner of transportation shall have supervision and direction over such maintenance or repairs, the cost of which shall be defrayed from moneys appropriated for the improvement, maintenance and repair of the canal system.

§ 64 Commutation for bridges

The commissioner of transportation may commute with owners and claimants of bridges over any canal, by paying such owner or claimant such sum in lieu of a bridge as may be agreed on between the claimant and the commissioner of transportation. If, in the opinion of the commissioner of transportation, a bridge should not be rebuilt, and the amount to be paid be not agreed upon, the bridge shall not be built, but the damages sustained by such owner by being deprived of such bridge and which the state under all the circumstances ought of right to pay, shall be ascertained in the same manner as damages for the appropriation of real property, for the use of the canal and paid by the commissioner of transportation, on the approval of the attorney-general. If the damages claimed are for the deprivation of a bridge which the claimant had before constructed or maintained, the circumstance of his being equitably bound to contribute proportionately toward the construction and maintenance of an enlarged bridge shall be taken into consideration and a proper amount of that account shall be set off against any damage to which the claimant might otherwise be entitled.

§ 65 Private road in lieu of farm bridges

If the commissioner of transportation cannot agree with the owner of a farm bridge spanning a canal as to the amount of commutation in any case where he is of the opinion that the state should erect such bridge, and the commissioner of transportation determines that a private road through adjoining lands will sufficiently accommodate such owner, and that the same can be laid out with economy to the state, he may take the necessary action to lay out a private road for the accommodation of the owner, in the manner prescribed by law for laying out private roads and pay to the owner of the lands through which the same is laid out, the damages assessed.

§ 66 Restrictions on the construction of farm and road bridges

A person shall not be entitled to demand a farm bridge across a canal or feeder where the necessity of convenience of such bridge shall have arisen from the division or acquisition of property subsequent to

the location of such canal or feeder. A street or road bridge shall not be constructed by the commissioner of transportation over a canal or feeder, except upon such streets or roads as were laid out, worked or used, previously to the construction of the canal or feeder, by which such street or road is obstructed; and when bridges are constructed or reconstructed upon any such streets or roads, the cost to the state shall in no case be more than is required to preserve in a safe and substantial manner the continuity of such streets or roads so as not to unnecessarily impair their usefulness. When a bridge of a more costly nature is desired by the local authorities of a city, town or village within whose corporate limits a bridge is to be built or rebuilt, the commissioner of transportation, on presentation to him by such local authorities of plans and specifications for such bridge and approval thereof by him shall estimate and determine the proportion of the cost, which, in order to preserve the continuity of such streets and roads, the state ought equitably to pay, and file such estimate and determination in his office and duplicate thereof in the office of the clerk of such city, town or village. If a private road or public highway is laid out by legal authority in such direction as to require the erection of a new bridge over a canal for the accommodation of the road, such bridge shall be so constructed and forever maintained at the expense of the town, village or city in which it shall be situated.

§ 67 Construction of bridges by municipal corporations

The common council of any city may provide by ordinance for the erection of a lift, hoist or swing bridge over a canal at any street in such city, on plans and specifications approved by the commissioner of transportation. If the commissioner of transportation shall consent to such erection he shall file such consent with the clerk of such common council. Such bridge shall be built, operated and maintained under the supervision and control of the commissioner of transportation, but at the expense of such city or of the property adjudged by the common council to be so benefited.

§ 68. Bridges spanning canal channels

1. When a bridge spanning the Oswego canal or that portion of the Erie canal between the Hudson river and its junction with the Oswego canal, is to be reconstructed, or a new bridge is to be built over such sections of the canal system, such reconstructed or new bridge shall be so built as to provide a clear passageway between the bottom clearance line of the bridge, if of the fixed type, or the bottom clearance line when raised, if of the movable type, and the surface of the water at its highest navigable stage of not less than twenty feet. When a bridge spanning the Champlain canal, the Cayuga and Seneca canals, or that portion of the Erie canal westerly of Three Rivers is to be reconstructed or a new bridge is to be built over such sections of the canal system, such reconstructed or new bridge shall be so built as to provide a clear passageway between the bottom clearance line of the bridge, if of the fixed type, or the bottom clearance line when raised, if of the movable type, and the surface of the water at its highest navigable stage, of not less than fifteen and one-half feet. The commissioner of transportation may, however, if in his judgment the additional cost is not unreasonable, require that such bridges be reconstructed or constructed to provide a clearance of not less than twenty feet or that the substructure of such bridge be so constructed that the superstructure may be raised to provide a clearance of twenty feet without rebuilding the foundation of said substructure.

2. The provisions of subdivision one of this section shall not apply to the reconstruction of the State Street bridge, Seneca Street bridge and the Buffalo Street bridge, all over the Cayuga inlet in the city of Ithaca, county of Tompkins.

§ 69. Damages caused by excessive loads

The commissioner of transportation shall cause, where required, the posting of all bridges under his jurisdiction located on the canal system in conformity with the provisions of the vehicle and traffic law. Upon all such bridges incapable of safely carrying legal loads as prescribed in such law or where the overhead clearance is less than the legal height of fourteen feet, the commissioner of transportation shall have displayed on both ends of such bridge signs stating the safe carrying capacity and legal clearance of such structure, all in accordance with the provisions of section three hundred eighty-five of the vehicle and traffic law. No person shall cause to be transported over such a bridge a vehicle whose load is in excess of that shown upon the posted sign or whose height is in excess of the legal clearance as shown on such posted sign. Any person violating the above provisions shall be subject to the penalties imposed under section three hundred eighty-five of the vehicle and traffic law and in addition thereto shall be liable for all damages to such structure resulting from violation of such law. The commissioner of transportation is hereby authorized and directed to proceed, on behalf of the people of the state, to cause to be recovered, by the attorney-general in an appropriate action in any court of competent jurisdiction, the amount of damages sustained and expenses incurred by the state in consequence of such violation.

§ 69-a. Changes in bridges and highways on or over canals and canal lands

The commissioner of transportation shall notify the corporation as to any changes planned for the bridges and highways on or over canals and canal lands which may have an impact on canal operations.

Article VIII – Canal Navigation

§ 70 Cargo statement

The master of any float shall furnish the corporation or its representative a true statement of the quantity and description of the lading of such float, specifying the place from which it departed and to which it is destined. Any master who refuses to comply with any provision of this section shall forfeit to the people of the state a penalty not to exceed one hundred dollars, which shall be paid into the canal fund.

§ 71 Registry of canal floats

The owner of every commercial float to be navigated on the canal system shall make application to the corporation for a New York state certificate of registry. The application shall be in form prescribed by the corporation and shall contain such information as the corporation may deem essential for full and complete identification of the float and the owner thereof. It shall be signed by the owner if an individual, or by an officer of a company, partnership or corporation if so owned. Upon receipt of an application in proper form, the corporation shall assign a state registry number and issue to the owner a certificate of New York state registry, a copy of which shall be entered in the records of its office.

§ 72 Change of ownership, name or hailing place

Should the ownership, name or hailing place of a float change after state registry, the owner of the float shall make new application in form similar to that required for original registry and upon receipt of such application the corporation shall issue a new state certificate of registry and record the same in its office. The owner or owners of a commercial float found navigating the canal system, the ownership, name or hailing place of which shall have been changed without proper application for re-registry to the

corporation, shall, upon due proof thereof be subject to a penalty to the people of the state of New York not to exceed one hundred dollars recoverable by the attorney general in an action in any court of competent jurisdiction.

§ 73 Registered owner to be advised of assessments and penalties

The corporation shall advise the person whose name appears on the latest application for registry on file in its office of any assessments, penalties or other charges levied against a float or its crew for acts or omissions occurring while the float is on the canal system. Should the registered owner fail to make prompt payment of such assessments, penalties or charges, the corporation may refuse clearance to the float and action shall be instigated as provided under section eighty-three of this article.

§ 74 List of registered floats to be prepared

The corporation shall make a list of all floats to which New York state certificates of registry have been issued. This list shall be corrected at least once in each calendar year and a copy of such corrected list shall be filed in the office of each of the district engineers having supervision over portions of the canal system. The list shall be filed in the office of the corporation and shall be available to public inspection within regular office hours.

§ 75 Clearance and ownership

Every commercial float shall have a clearance. Clearances may be obtained at such places along the canal system and at such other points as the corporation may direct. No clearance shall be granted to any commercial float unless the person authorized to issue such clearance has evidence that such float is duly registered in the office of the corporation. Each float shall have a separate clearance and no part of the cargo shall be cleared to a place beyond which the float is cleared. The corporation may, in its discretion, refuse to issue a clearance for a vessel against whose registered owner there is an unpaid penalty involving such vessel for the violation of rules and regulations adopted pursuant to this chapter.

§ 76 Regulations with respect to clearance

No commercial float shall proceed beyond the place to which it is cleared, nor unload any of its cargo, before or after its arrival, at the place from which such articles are cleared, nor proceed beyond such place until the master thereof delivers the clearance of such float or articles to the person designated by the corporation to receive the same, at the place for which they are cleared. If there is no canal official at such place, then to the canal official whose office shall be passed by the float in the order of its voyage, and receive permission from such canal official to proceed to the place to which it is cleared.

§ 77 Copy of clearance

The corporation, or its representative issuing a clearance or with whom a clearance is filed, shall, when requested, furnish a copy thereof, with any additional cargo entered thereupon and the several indorsements, if any, which copy shall have the same validity and effect as the original clearance of which it is a copy.

§ 78 Assignment of berths for loading or unloading

The corporation or its representative may assign berths to all floats while loading or unloading at any landing place upon a canal and determine disputes concerning same. The corporation, shall, as to any of the locks, terminals or mooring places of the canal system used by floats, regulate and station such floats for the best interest of navigation. The corporation may determine how far and in what instances masters and other persons having charge of any float shall accommodate each other in their respective anchorages. If any master or other person having control of any float within the limits of such waters shall neglect or refuse to obey the directions of the corporation, or its representative, in any such matters within its authority, or shall resist or oppose the corporation in the execution of the said duties, such person shall be liable to a penalty not to exceed one hundred dollars, recoverable by the corporation in any court of competent jurisdiction, and payable into the canal fund.

§ 79 Floating elevators

Any person owning or leasing, in whole or in part, any floating elevator used for loading grain, coal, sand, or other material, shall, upon application to and in the discretion of the corporation, be assigned a place for and permitted to keep said floating elevator in the waters of the canal system of this state, at such point as may be most convenient for and for such period of time as may be necessary for the transaction of the business of loading or unloading grain, coal, sand, or other material, shipped or to be shipped on the canals; provided, however, that such floating elevator shall cause no obstruction to the free and uninterrupted use of the canal system by floats navigating thereon. While such elevators are in operation, they shall be equipped with such device or devices as the corporation may determine to prevent the material being loaded or unloaded from such float, from falling into such waters.

§ 80 Supplying deficiencies of water

Whenever the navigation of any part of the canal system is endangered by reason of a deficiency of water, the corporation shall, without delay, supply such deficiency. For that purpose it shall resume the temporary use of all the surplus water leased, licensed or withdrawn under revocable permit from the part of the canal system where such deficiency exists. If there still be a deficiency of water, it may enter upon and use all lands, streams and waters which, in its judgment, may be necessary or proper to be used to procure a temporary supply of water for such part of the canal system. The corporation may enter into an agreement with the owner or owners of any property used for such temporary purpose under this section covering the amount of damage sustained. Such agreement when approved by the attorney-general shall become an obligation of the corporation and paid from moneys available therefor. In case no agreement is consummated the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter. No damages shall be allowed in any case for resuming the use of any surplus water which has been withdrawn under lease, license or revocable permit.

§ 81 Deposit of refuse in navigable waters

It shall be unlawful to throw from or otherwise deposit, either from or out of any float or from the shore, wharf, manufacturing establishment or mill of any kind, refuse or other matter of any description, into any of the waters of the canal system or into any waters dredged at public expense and used for canal purposes. Every person that shall violate the provisions of this section shall be subject to damages to the amount as will compensate the corporation for the expenses involved in restoring such waters to its useful condition to meet the needs of canal navigation. It shall also be unlawful for any person to obstruct the

navigation of a canal by the improper mooring, management or conduct of a float, or by placing any obstruction on the banks thereof.

§ 82 Seizure of obstruction

The corporation may cause to be seized and removed any object, article, float or sunken thing found within the limits of the canal system not under the care or charge of any person. It shall sell or offer for sale all seized objects, articles, floats or sunken things either before or after their removal, as it deems essential for maintenance of the canal system. The sale shall be at public auction after giving ten days' written notice of such proposed sale conspicuously posted at two public places in the city or town where such object, article, float or sunken thing is found unless before the time of such sale the owner thereof appears and claims same and pays to the corporation the cost and expense which has been incurred by it in connection with the seizure, removal and proposed sale. The owner thereof shall be liable for the cost and expense of such seizure, removal and sale of the said object, article, float or sunken thing which cost and expense may be recovered by the attorney-general in an appropriate action or proceeding brought in the name of the people of the state in any court of competent jurisdiction. The avails of such sale shall be accounted for by the corporation to the department of taxation and finance which may on the application of the owner and upon due proof of ownership pay over such proceeds to him after deducting all costs, expenses and reasonable charges of the seizure, removal and sale thereof. Whenever in the opinion of the corporation the navigation or operation of any part of the canal system is interrupted or endangered, the corporation may cause to be cut up, destroyed or otherwise removed any object, article, float or sunken thing in or partly in the waters of the canal system which may, in its judgment, be causing such interruption or damage. The corporation may enter into an agreement with the owner or owners of any property so cut up, destroyed, or otherwise removed, covering the amount of damage sustained. Such agreement when approved by the attorney-general shall become an obligation of the corporation and paid from moneys available therefor. In case no agreement is consummated, the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter.

§ 83 Liability of float for penalty, detention and sale thereof

Every penalty and forfeiture prescribed by this chapter against the owner, master or other person having charge of any float, when incurred, shall be chargeable on such float, and an action for the recovery thereof may be brought against any person in the possession or having charge thereof at the time when it is commenced; and any court or judicial officer issuing the process for the commencement of such an action, may, by a clause to be inserted therein, direct the officer executing the same, to detain such float or its appurtenances until action is determined or until adequate security is given for the payment of any judgment recoverable. If such security be given, or the defendant in the action prevail, such court or officer shall order the boat or other float and property detained to be released. If no such security be given and a judgment be recovered for such penalty or forfeiture, and not immediately paid, an execution shall be issued under which the property so detained may be sold in like manner as if the judgment had been obtained against the owner thereof.

§ 84 Damage caused by termination of canal navigation

No part of the canal system of the state which was improved pursuant to chapter seven hundred ten of the laws of nineteen hundred seven and the acts supplemental thereto and amendatory thereof, shall be abandoned or navigation thereof permanently closed, nor shall the state cede or transfer ownership, jurisdiction or control thereof to the United States pursuant to authority conferred by constitutional

amendment, until the expiration of one year after the corporation shall have been authorized and empowered by law to cause a notice of intention to take such action to be published once in each month during such year in at least one newspaper published in each county adjacent to the part of such canal system affected by such notice. Each person, who, at the time of the first publication of such notice, is the owner of a commercial float registered pursuant to the provisions of this chapter, which, at the close of navigation in such year, shall have been actually engaged in the navigation of the part of such canal system so abandoned, closed, ceded or transferred, or so relinquished to the jurisdiction or control of the United States, may present a claim for damages against the state including the corporation to a court of competent jurisdiction, which court shall hear and determine the liability of the corporation therefor; and, if the court shall find that such person has suffered or sustained damages by reason of such abandonment, closing, ceding, transfer, or relinquishment which the corporation, in right and justice, or in law or equity, is obligated to pay, such damages shall constitute a valid and legal claim against the corporation, and the corporation shall be deemed liable therefor, and the court may make an award to such person and render a judgment in his favor against the corporation in such sums as it shall find to be just and equitable. It is declared to be the purpose of this section to encourage and induce the construction of boats for use upon such canal system and their operation thereon and to protect from loss, financial investments made in such construction and operation caused by an abrupt, permanent termination of navigation, or the creation of conditions, which would result in the impairment, limitation or destruction of navigation of such canal system by such floats.

§ 85 Rules and regulations

The corporation shall prescribe and enforce rules and regulations, not inconsistent with law, governing navigation on the canals and for the use of the terminals connected with the canals and for the use of all other property of the corporation under the corporation's control and maintained as a part of the canal system. The corporation shall provide rules and regulations for the government of all employees under its control, engaged in the improvement, repair and maintenance of the canals. It shall cause such rules and regulations to be printed and a copy filed in the office of the department of state and a sufficient number distributed to the various district engineers and other field officers to be kept in their respective offices for public inspection.

[§ 86. Renumbered Canal Law § 85 by L.2001, c. 335, § 51, eff. Dec. 18, 2001]

Article IX – Canal Accounts

§ 90 Record of operating expenses

The corporation shall keep an accurate account of all moneys appropriated by the legislature for the improvement, maintenance, repair and operation of the canal system and shall cause to be prepared and filed in the office of the corporation on or about January first of each year, a statement showing all such moneys appropriated and how expended during the preceding fiscal year. The corporation shall keep an accurate account of the recoveries made in all actions brought by it or at its direction, for the recovery of penalties or damages under authority of this chapter and of the cost and expenses thereof and pay into the canal fund the amount of all such recoveries and account for the same with the department of audit and control.

§ 91 Tonnage statistics

The corporation shall collect and compile accurate records of the tonnage transported on the canals during each season of navigation. Such data, together with all other necessary information relative to canal

transportation shall be arranged in convenient form and furnished to those interested. The corporation shall publish from time to time such data and information as, in its opinion, will promote and encourage commerce on the canals.

§ 92 Annual report

The corporation shall during the month of January make a report to the legislature covering the activities of the corporation with respect to the canal system for the preceding calendar year ending December thirty-first, including therein details as to the tonnage transported upon the canals of the state, the condition of the canals, and the work and improvements connected therewith; the several amounts of moneys appropriated and expended during the preceding fiscal year and submit recommendations of such measures in relation to the canals as, in its judgment, the public interest requires.

Article X - Permits

§ 100. Granting revocable permits

The corporation is hereby authorized, in its discretion, to issue revocable permits granting certain limited privileges therein, whenever the same can be done without detriment to canal navigation or damage to the banks or other structures thereof. It shall prescribe the terms and conditions by which such revocable permits may be issued for the temporary use of canal lands or structures and for the diversion of canal waters for sanitary, farm purposes, or industrial use. It may also issue permits, as it shall deem to be advantageous to the corporation, to any person, firm or corporation, to cut, gather and haul away ice from the canals. Whenever any space and facilities are available at any canal terminal and when no detriment or injury to canal traffic or delay in handling same would result, the corporation may issue a revocable permit for the temporary and restricted use or occupancy, of such canal terminal and the facilities thereof, pursuant to the rules and regulations which it may prescribe. All permits heretofore granted by the corporation and not canceled, are hereby legalized and confirmed and made effectual and valid in accordance with the terms and conditions in said permit as fully as if this chapter had been in force on the date of issuance of such permit. No liability of any kind shall attach to or rest upon the state, including the corporation, for any damage on account of the granting or revocation of any permit. Existing permit holders within the Adirondack park in compliance with the terms of permits which have been properly issued pursuant to law shall continue to be afforded permits at least until the first day of June, nineteen hundred ninety-four, unless such permit holders fail to apply for permit renewal within six months of the expiration of such existing or former permit or permits, or by the first day of August, nineteen hundred ninety-three, whichever is later; provided, however, that no additional development right or rights may be included in any permit renewed prior to the first day of June, nineteen hundred ninety-five. Any revenue realized from the issuance of such permits shall be deposited into the canal fund.

§ 101. Railroads operating over canals

The corporation shall have a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to the state or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the corporation a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting distinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and

obtains the written permission of the corporation for the construction of such railroad, with such conditions, directions and instructions as in its judgment the free and perfect use of any such canal or feeder may require.

Whenever any street railroad shall cross over any bridge spanning a canal, or canal feeder, the company owning, maintaining and operating the same, shall be deemed liable for and shall pay all damages that may occur or arise, either to the state or to persons, by reason of its laying and maintaining its tracks or rail over, upon and across any such bridge, or by reason of the operation of its cars over the same; and any such company shall, upon demand of the corporation, make any repairs to such structure to insure the continued safety thereof, as shall have been rendered necessary by reason of such use of said structure by said company. Any company maintaining or operating a street railroad over, upon and across any such bridge shall indemnify the state including the corporation against any and all loss, damages or claims for damages for injuries to persons or property of passengers which shall be incurred by or made against such state by reason of the operation of such railroad over any such bridge, and the or¹ corporation may, in its discretion, require any company so maintaining or operating a street railroad to furnish a bond, with sureties to be approved by it to indemnify the state including the corporation from all such loss, damage or claim. All such permits heretofore or hereafter granted shall be revocable whenever the free and perfect use of any such canal or feeder may so require, or if such railroad company shall fail to make any such repairs when required by the corporation. The railroad company using or occupying any bridge over the same shall, within a reasonable time after the service upon it, by the corporation of a written notice of such revocation, or to make such repairs, remove at its own cost and expense, its railroad from such bridge and from the limits of ten rods of said canal or feeder.

§ 102. Pipe lines crossing canals

No pipe line shall be constructed upon or across any of the canals of this state, except by the consent of and in a manner and upon the terms prescribed by the corporation, unless constructed upon a fixed bridge across such canal and with the consent of the person, firm or corporation for whose benefit such bridge is constructed and maintained, or upon such a bridge over the canal, at the crossing of a public highway, or street, with the consent of the public officers having the supervision thereof, or of the municipal authorities of any village or city within whose limits such bridge may be, nor shall the pipes of any such corporation be laid through, on or along the banks of any of the canals of this state, unless such pipes shall be encased so as to prevent leakage, in such manner as shall be approved by the corporation.

§ 103. Tolls for lock and lift bridge passage by vessels and use of locks and lift bridges

1. The corporation shall have the power to impose tolls for the passage through locks and lift bridges by vessels which are propelled in whole or in part by mechanical power, and to collect such tolls by the sale of lock and lift bridge passes issued for such periods of time as the corporation shall determine. Tolls for such lock and lift bridge passes shall be established by regulation of the corporation with the advice of the canal recreationway commission and following no fewer than two public hearings at geographically dispersed locations on the canal system. In addition, the corporation may provide by regulation for the sale of lock and lift bridge passes by any other entity, and may allow a charge for handling by such other entities not to exceed one dollar for each pass. No tolls shall be imposed or collected prior to the first day of April, nineteen hundred ninety-three. Vessels owned by the United States, a state, or subdivision thereof shall be exempted from the tolls authorized by this section.

2. The use of locks and lift bridges by pleasure and residential vessels shall not interfere with the use of locks and lift bridges by public vessels. Pleasure, residential and public vessels shall have the same meaning as defined in the navigation law.

3. Revenues realized from the imposition of lock and lift bridge tolls shall be deposited in the canal fund.

§ 104. Use of dry docks for repairs

The corporation may grant permission to owners of vessels operating upon the canals to use the state dry docks to the extent space is not required for the needs of canal maintenance vessels, and the corporation shall collect from such owners equitable charges for the use thereof. All sums collected for such use shall be paid into the canal fund.

Article XI – Canal Employees

§ 110. Canal officers not to be interested in floats, contracts, or hydraulic works

No public officer or employee connected with the care or management of the canal system shall be interested in any hydraulic work dependent upon the canals for a supply of water or in any commercial float navigating the canals, or directly or indirectly in any contract on the canals as a contractor, surety or otherwise in his own name or in the name of any other person or either directly or indirectly derives any benefit from an expenditure upon the canal system beyond his established compensation. If any officer or employee shall, at any time while holding such office or employment, be or become so interested or derive any such benefit, he shall forfeit his office or position and be discharged therefrom, and any contract in contravention hereof shall be void.

§ 111 Ineligibility to appointment on the canals

No person owning any hydraulic works dependent upon the canals for their supply of water, or employed in or connected with any such works, or engaged in transporting property upon the canals or owning or otherwise interested in boats navigating the canals, shall be employed upon the canals.

§ 112 Exemption of canal officers from arrest in civil actions

Neither the corporation, nor any officer or responsible employee in the corporation in charge of canal structures or forces thereof, or other public officer employed upon or in charge of the canal system or part thereof shall be liable to arrest or to be held to bail in any civil action for any act done or omitted to be done by it in the exercise of its official duties, nor be subject to military duty while actually engaged in their respective employments upon the canal system while the same is navigable.

§ 113 Delivery of property on discharge of employees

Every person employed upon the canal system and occupying any house, office, building, or land belonging thereto, who is discharged from his employment or otherwise separated from the service, and the spouse and family of every such person, shall deliver to the corporation or a person designated by it, the possession of the premises so occupied and of all books, papers, matters or other articles and things belonging to the canal system acquired by virtue of such employment, within seven days after notice is served for that purpose by the corporation. In case of a refusal or neglect to make such delivery, any

court of competent jurisdiction in the county where such premises are situate, may, on application, issue a warrant ordering any peace officer, when acting pursuant to his special duties, or police officer, with such assistance as may be necessary, to enter, in the daytime, upon the premises so occupied and remove therefrom all persons found in possession thereof, and to take into his custody all books, papers, articles and things there found belonging to the canal system, and deliver the same to the corporation or to some person designated by it, and such officer shall execute such warrant accordingly.

§ 114 Functions, powers or duties imposed upon officers or employees by statutory name

Whenever a function, power or duty is imposed upon the corporation, and an officer or employee, or a group or class thereof is designated in this chapter by a statutory or specific title or name to exercise such function or power or perform such duty, the exercise or performance thereof shall be deemed to be imposed upon the officer or employee in such corporation who shall be assigned thereto by such corporation, with the same force and effect, and such corporation may make such assignment as though no statutory or specific title or name had been used in this chapter to designate the particular officer or employee or group or class thereof charged with the exercise of such function or power, or the performance of such duty.

[§ 115. Renumbered Canal Law § 114 by L.2001, c. 335, § 60, eff. Dec. 18, 2001]

Article XII – Damages

§ 120 Claims for damage generally

There shall be allowed and paid to every person sustaining damages from the canals or from their use or management, or resulting or arising from the neglect or conduct of any officer of the state or the corporation having charge thereof, or resulting or arising from any accident, or other matter or thing connected with the canals, the amount of such damages to be ascertained and determined by the proper action or proceedings before the court of claims, but no judgment shall be awarded by such court for such damages in any case unless the facts provided therein make out a case which would create a legal liability against the state or the corporation, were the same established in evidence in a court of justice against an individual or corporation; but the corporation may make settlement of any such claim in any case where the amount thereof does not exceed the sum of five hundred dollars but no settlement shall be effective against the state including the corporation until the same has been approved by the attorney-general; provided that the provisions of this section shall not extend to claims arising from damages resulting from the navigation of canals, and further provided that the provisions herein relating to damages resulting from navigation of the canals shall control notwithstanding any contrary or inconsistent provisions of any other law, general or special. The corporation shall not pay any damages awarded, or the amount of any commutations agreed on for the appropriation of land or water, or for the erection of a farm bridge, until a satisfactory abstract of title and certificate of search as to encumbrances is furnished, showing the person demanding such damages or commutations to be legally entitled thereto, which abstract and search shall be filed in the office of the corporation.

§ 121 Adjustment of claims of owners of private dams

Whenever the state including the corporation in the course of the construction of the improved canals in the rivers or waterways of the state, for the purpose of obtaining a sufficient depth or supply of water for canal purposes, has utilized private dams theretofore lawfully constructed or maintained, in such a manner as to

constitute the same an essential part or portion of the improved canals, the corporation may compromise, settle and adjust the claims and demands of the owners of any such dams on such terms and conditions, including the payment to the owners of any such dams of such sums of money as to it may seem just and proper, and, by contract or otherwise, make proper provision with respect to the ownership of and for the maintenance and upkeep of any such dams, provided, however, that it shall not sell, transfer or convey to any such owner any right, title or interest in or to the use of any part or portion of the water impounded by such dams.

Article XIII – Miscellaneous

§ 130. Operation of hydro-electric plants at Crescent and Vischer Ferry

The corporation shall have charge of the hydro-electric plants constructed pursuant to chapter five hundred thirty-two of the laws of nineteen hundred twenty-two for the development and generation into electric energy of water power available at the structures known as the Crescent and Vischer Ferry dams located on the canalized Mohawk river between the city of Schenectady and the village of Waterford, and shall exercise the same powers over such structures as it has over other structures on the canal system. The said structures shall be maintained and operated as a part of the canal system.

Notwithstanding any general or special law to the contrary, the corporation, upon the approval of the state comptroller, and the division of the budget, is authorized to enter into a negotiated contract for the sale of surplus electricity produced at the Crescent and Vischer Ferry dams, upon such terms and conditions as are beneficial to the state including the corporation. Any revenue realized from the sale of such surplus electricity shall be deposited into the canal fund.

§ 131. Emergency repairs

When, in the opinion of the corporation, an emergency exists endangering the canal system the corporation may seize any lands, equipment, materials or supplies necessary to avert such damage or to restore the banks or other property which may be threatened or have been damaged. It may subsequently return or otherwise dispose of such lands, equipment, materials or supplies so seized which may be no longer required in such manner and upon such terms as in its judgment will be for the best interest of the state including the corporation. It may enter into an agreement with the owner or owners of any property seized for such emergency repairs under this section covering the amount of damages sustained. Such agreement, when approved by the attorney-general, shall become an obligation of the corporation and paid from moneys available therefor. In case no agreement is consummated, the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter.

§ 132. Investigate matters relating to the canal system; immunity of witnesses

1. The corporation may, whenever the corporation shall deem it necessary, to effectively accomplish the purposes of this chapter, investigate any or all matters and transactions connected with or relating to the canal system. The corporation shall hear and take proofs in regard to any matter pending before it or which it is authorized to examine or investigate. It shall have power to investigate into the official conduct of any subordinate officer or employee and shall have the power to issue subpoenas for and require the attendance of witnesses and the production of all books and papers relating to any matter under inquiry. All such subpoenas shall be issued under the hand and seal of the corporation. A subpoena issued under this section shall be regulated by the civil practice law and rules. The testimony of witnesses in any such proceedings shall be under oath and the state officer instituting the proceedings shall have

power to administer oaths. A witness may have counsel and his examination by such counsel shall be reduced in writing as part of his deposition.

2. In any investigation under this article, the corporation may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law.

3. All evidence taken under this section shall be filed with the attorney-general. The expenses incurred in such investigation shall be paid from the canal fund.

§ 133. Impose penalties and power to remit

The corporation may, in its discretion, remit either absolutely, or on such conditions as it shall prescribe, any forfeiture incurred by a violation of any provision of this chapter, or any of the rules and regulations established by it, on the written petition of the person liable for the forfeiture, with due proof of the facts on which the application for the remission is founded, which petition and proof and the order thereon shall be filed and preserved in the office of the department of audit and control.

§ 134. Actions for penalties

All actions for penalties and forfeitures imposed in this chapter, or for damages, on behalf of the state including the corporation, shall be prosecuted in the name of the corporation, by the corporation, unless otherwise specifically provided. All money recovered in such actions shall be accounted for and paid into the canal fund. The imposition or recovery of any such penalty or forfeiture shall not be a bar to recovery of any damages resulting to the corporation or any person, because of such violation.

[§§ 135, 136. Renumbered Canal Law §§ 133, 134 by L.2001, c. 335, § 66, eff. Dec. 18, 2001]
[§§ 135, 136. Renumbered Canal Law §§ 133, 134 by L.2001, c. 335, § 66, eff. Dec. 18, 2001]

Article XIII-a Canal Recreationway Commission

§ 138-a. Canal recreationway commission

1. There is hereby established a canal recreationway commission (hereinafter referred to as the “commission”) consisting of the following members:

a. the chairman of the authority, the commissioner of transportation, the commissioner of the office of parks, recreation and historic preservation and the commissioner of environmental conservation, or their representatives;

b. ten individuals involved in canal use, development, preservation or enhancement and local governments from counties adjacent to or intersected by the canal system appointed by the governor of whom three shall be appointed at the recommendation of the temporary president of the senate and three shall be appointed at the recommendation of the speaker of the assembly. In appointing such members, the governor shall ensure geographic representation from each of the canal sections encompassing the canal system, including at least one representative from counties in which the Erie, Champlain, Cayuga-Seneca, and Oswego canals are located. In addition, individuals appointed to the commission shall be broadly representative of the following areas of interest: preservation of the environment, the operation of tour boats on the canal, the operation of marinas on the canal, recreational trail users, hunting and fishing, tourism promotion agencies as defined in section one hundred sixty-two of the economic development law, historic preservation, the commercial farming industry and the commercial shipping industry,

provided that with respect to appointment of an individual representative of the commercial farming industry or commercial shipping industry, such an individual may reside outside of a county adjacent to or intersected by the canal system if such person holds an ownership interest or senior managerial position in a commercial farming firm or commercial shipping firm, respectively, which regularly uses the canal system in furtherance of its business; and

c. the commissioner of economic development and the secretary of state, or their representatives, and a member from each of the regional planning boards, as established by articles five-G and twelve-B of the general municipal law, whose region is intersected by the canal shall be ex-officio, non-voting members of the commission and shall provide technical expertise and advice to the commission as necessary.

2. The chairperson of the commission shall be the chairman of the authority. The members of the commission may elect a secretary and other necessary officers to serve for such a period as the members shall decide.

3. Members of the commission, except commissioners of a state agency, chairs of public authorities, the secretary of state, and representatives of regional planning boards shall serve for a term of four years and may be reappointed; however, of those members appointed initially, three such members, one appointed by the governor, one appointed by the temporary president of the senate and one appointed by the speaker of the assembly shall be appointed for terms of two years, and three such members, one appointed by the governor, one appointed by the temporary president of the senate and one appointed by the speaker of the assembly shall be appointed for terms of three years.

4. Any member, except a member who is a state official, after notice and an opportunity to be heard, may be removed by the governor for neglect of duty or misfeasance in office. Any member, except a member who is a state official, who fails to attend three consecutive meetings of the commission, unless excused by formal vote of the commission, shall be deemed to have vacated his or her position.

5. Any vacancy in the commission shall be filled for the unexpired term in the same manner as the original appointment.

6. A majority of the voting members of the commission then in office, at least five of whom are not appointed pursuant to paragraph a of subdivision one of this section, shall constitute a quorum for the transaction of any business or the exercise of any power or function of the commission. An act, determination or decision of the majority of the members present and entitled to vote during the presence of a quorum shall be held to be the act, determination or decision of the commission.

7. The commission shall meet at least quarterly at the call of its chairperson. Special meetings may be called by its chairperson and shall be called by the chairperson at the request of a majority of the members of the commission then in office.

8. Members of the commission shall not receive compensation for their services as members, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

§ 138-b. Functions, powers and duties

The commission shall:

1. Develop, maintain and periodically revise a statewide canal recreationway plan (hereinafter referred to as the "plan") for the canal system. Such plan shall be developed in accordance with the provisions of

section one hundred thirty-eight-c of this article and shall be submitted to the authority for its consideration no later than the first day of June, nineteen hundred ninety-four.

2. Solicit input from counties intersecting or bordering the canal system and incorporate it to the greatest degree practicable in the development of the plan. In order to facilitate such incorporation commission members representing each of the regional planning boards shall request from and provide assistance to each county it represents in the preparation of a county canal plan. Multi-county canal plans may be requested by the regional planning board representative, as deemed appropriate, in lieu of individual county canal plans. In a region where a regional planning board does not exist, the commission shall solicit county canal plans from each of the chief executive officers of those counties outside the jurisdiction of a regional planning board. The commission shall prescribe uniform guidelines concerning the format of plans to be used by the regional planning board representatives to assist counties in the preparation of county canal plans. The regional planning board representative shall encourage the development of county canal plans that reflect participation by diverse local interests by seeking advice, to the extent possible, from individuals and organizations from such counties with an interest in recreation, hunting and fishing, the environment, canal related tourism businesses, historic preservation and commercial development along the canal. In order to be considered in the formulation of the plan, county canal plans must be submitted to the commission not later than the first day of June, nineteen hundred ninety-three.

3. Ensure public comment on the plan, including at least three public hearings on the plan prior to submission of the plan to the authority. The commission may also hold hearings on other matters it deems appropriate.

4. If deemed appropriate, request that studies, surveys or analyses be performed by the corporation, the departments of transportation, economic development and environmental conservation and/or the office of parks, recreation and historic preservation to assist in the development, promotion, marketing and/or preservation of the canal system or the preparation of the plan. At the request of the commission, state agencies and public authorities shall cooperate fully and shall provide requested information in a timely manner.

5. Advise and assist the corporation in carrying out its duties and obligations related to the canal in the following manner:

a. evaluate and make recommendations for new operational, maintenance and capital initiatives or projects to enhance the canal;

b. establish criteria and procedures for the review by the commission for consistency with the canal recreationway plan of abandonments of canal lands, canal terminals and canal terminal lands, and leases of canal lands, canal terminals, and canal terminal lands proposed by the corporation pursuant to article six-A of this chapter; provided, however, that where local zoning laws and zoning ordinances are in effect on lands proposed to be leased or on lands adjacent to those lands proposed to be leased such review shall include, to the extent practicable, the consideration of the compatibility of such leases with the requirements of such local zoning laws and zoning ordinances; and provided further that the commission may determine that certain categories of leases do not require review;

c. submit to the corporation, the director of the budget and the chairpersons of the senate finance committee and the assembly ways and means committee, on the first day of October, nineteen hundred ninety-two, and on or before the first day of August in each year thereafter, a budget request for the operations of the commission. Such request shall include provisions for staff services and other administrative assistance

as deemed necessary by the commission to perform its functions and meet its responsibilities during the next calendar year. The corporation shall provide staff services to the commission and such other administrative assistance as may be necessary for the commission to carry out its functions, powers and duties;

d. submit to the corporation, the director of the budget and the chairpersons of the senate finance committee and the assembly ways and means committee, on the first day of October, nineteen hundred ninety-two, and on or before the first day of August in each year thereafter, a budget request for the expenditure of funds available from the canal fund, for the purposes established by section ninety-two-u of the state finance law. Submissions made during the initial years shall give funding priority for expenditures related to the development and/or promotion of the canal system;

e. undertake a comprehensive study of alternative waterway and canal toll and fee structures, including but not limited to, a comparative analysis of other existing waterway and canal systems, the impact of various toll and fee structures on recreational use, tourism, and commercial activity; and the revenue implications for each of these alternatives. The commission shall make recommendations to the authority by the first day of April, nineteen hundred ninety-three, on appropriate tolls and fees to be charged for the use of the canal system and shall provide an update on the implementation of such recommendations by the first day of April, nineteen hundred ninety-five; and

f. utilize information provided by the authority and other state agencies and departments, pursuant to section ten of this chapter, surveying canal lands within the Adirondack park and studying current land uses, to make recommendations to the authority, no later than the first day of June, nineteen hundred ninety-four, concerning the future use of canal lands within the Adirondack park, including but not limited to the utilization of existing properties under revocable permits; and the identification of any property not needed for canal purposes that may be transferred to the department of environmental conservation.

6. Establish committees as it deems appropriate on matters relating to the commission's functions, powers and duties; such committees shall be chaired by a commission member but may include persons not members of the commission who provide expertise of interest specific to the charge of such committee.

a. the commission shall create a temporary committee which shall include the commissioner of the department of economic development and the commissioner of the office of parks, recreation and historic preservation or their representatives and others with appropriate expertise to identify opportunities for achieving the economic development potential of the recreationway and to make recommendations for specific implementation of these opportunities, including recommendations for marketing and promotion designed to attract tourists.

b. the commission shall create a temporary committee, which may include appropriately accredited professionals, to assess and report to the authority on issues associated with managing the waters of the canal system, including issues relating to recreational use, habitats and flood prone areas.

7. Report on or before March thirty-first of each year commencing nineteen hundred ninety-four to the corporation, the governor, the temporary president of the senate and the speaker of the assembly on the activities of the commission with respect to the functions, powers and duties established in this section.

§ 138-c. Canal recreationway plan

1. The commission shall, in accordance with the provisions of section one hundred thirty-eight-b of this article, formulate a statewide canal recreationway plan for the canal system that is based upon the inventory prepared pursuant to subdivision twenty-three of section ten of this chapter and that is consistent with the land use concepts contained in the state land acquisition plan prepared pursuant to section 49-0207 of the environmental conservation law and in the statewide comprehensive outdoor recreation plan prepared pursuant to section 3.15 of the parks, recreation and historic preservation law. The plan shall include, but not be limited to:

a. criteria for uses of the canal system which will effectuate the goal and objective of developing the canal into a recreationway system;

b. provisions for fostering a canal system characterized by clusters of development connected by stretches of undeveloped open space in areas between cities, villages and hamlets which will be conducive to the preservation of waterfowl, fish and wildlife habitats;

c. provisions for the consideration of environmental resources, including lands which possess significance for wildlife management, recreation or natural resource protection purposes and significant freshwater wetlands;

d. provisions which protect the public interest in such lands and waters for purposes of commerce, navigation, fishing, hunting, bathing, recreation and access to the lands and waters of the state, and otherwise encourage increased public access to the canal through the establishment of parks, scenic by ways and recreational trails on the canal system. Such provisions shall ensure the public safety;

e. provisions to protect agricultural uses of canal land and waters;

f. provisions for appropriate development of businesses in appropriate locations which will support outdoor recreation activities;

g. provisions which give guidance to the authority with respect to managing water levels in reservoirs to provide water to the canal system and retain water for recreational purposes;

h. provisions to protect commercial shipping interests on the canal system; and

i. provisions for the consideration of historic buildings, sites and districts.

2. The plan shall establish goals and objectives with respect to implementation, with provision for amendment of the plan to reflect changing conditions.

3. a. The corporation shall act upon the plan submitted by the commission within four months after its submission and shall approve such plan unless it finds that the plan, or any part thereof: (i) is not financially or operationally feasible; (ii) would violate any federal or state law, rule or regulation; (iii) violates agreements with noteholders or bondholders of the authority; (iv) interferes with existing contracts; or (v) is inconsistent with the findings of the generic environmental impact statement undertaken pursuant to section three hundred eighty-two of the public authorities law.

b. In the event that the corporation finds that the plan cannot be approved in its entirety, it may approve such portions of the plan as it deems appropriate, and shall recommend changes to the remaining portions of the plan to the commission. The commission shall then have three months in which to consider the recommendations of the corporation and submit a revised plan or portions thereof to the corporation.

c. Upon the approval of the plan or a portion of the plan as provided in this section, the corporation shall deliver within ten days a copy of the plan or portion of the plan to the governor, the temporary president of the senate and the speaker of the assembly, with a dated notice of such approval.

Article XIII-B – Upstate Flood Mitigation Task Force

§ 139. Upstate flood mitigation task force.

The upstate flood mitigation task force, referred to in this article as the "task force", is hereby established to identify reasonable measures that can be taken to enhance flood management and mitigation in the upstate flood mitigation region and to make recommendations and provide grant assistance with respect to such measures.

*NB Repealed March 31, 2020

§ 139-a. Definitions.

1. "Adaptive measures" means any adjustment, whether passive, reactive or anticipatory, that may be taken to ameliorate the anticipated adverse consequences associated with flood events.

2. "Flood control study sector" means a particular aspect of the natural or built environment, economy, or society that could potentially be adversely impacted by flood events. Such term includes, but is not limited to, stream and river banks, locks and dams, wetlands and waterfront areas, water resources, transportation infrastructure, water supply and wastewater infrastructure, human health, recreation, tourism, power generation and business, residential, farm and municipal sectors.

3. "Flood event" means an overflow or inundation that comes from a river or other body of water, whether caused by rainfall, waterway operation, dam break, water runoff or other means, and causes or threatens damage.

4. "Canal system" shall mean the canal waterways, lands and infrastructure as set out in section two of this chapter.

5. "Upstate flood mitigation region" or "region" shall include a county, except a county wholly encompassed by a city and any county with a population of one million or more.

*NB Repealed March 31, 2020

§ 139-b. Task force composition.

1. The task force shall consist of nine members, including the director of the canal corporation, the commissioner of transportation, the director of the division of homeland security and emergency services and the commissioner of environmental conservation; and five additional members who shall be from outside the public offices listed in this section and who shall have professional experience in one of the following fields: hydrology, civil engineering, climatology, emergency management and soil and water conservation. Three of the additional members shall be appointed by the governor and one each of the remaining additional members shall be appointed by the temporary president of the senate and the speaker of the assembly.

2. The task force shall appoint a chairperson from among its members.

3. The members of the task force shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

*NB Repealed March 31, 2020

§ 139-c. Task force duties and powers. The role of the task force shall include but not be limited to:

1. Conducting an in-depth examination, presented as a public report no later than six months from the date the task force is established, of flood control study sectors and issues related to floodplain management, debris management, flood control and flood mitigation in the upstate flood mitigation region including:

a. the cost or impact of flooding over the last five years to agriculture; transportation; land use; public health; insurance; economic sectors such as tourism, recreation and power generation; as well as impacts on infrastructure including bridges, low lying roads, dams, locks, roads, water and wastewater treatment plants and docks;

b. an assessment of canal system operation procedures and plans which may have a direct or indirect impact on flood mitigation and flood management including, but not limited to debris management, communication, water management and flood response; and

c. a listing of adaptive measures, with associated costs, that could be executed to mitigate flood damages, including but not limited to feasible floodplain management activities, debris management, construction of flood control structures, construction of communication systems and flood mitigation education for public and private landowners.

2. Establishing an upstate flood mitigation grant program based on the task force's evaluation pursuant to section one hundred thirty-nine-d of this article which is subject to appropriations to fund grants within the upstate flood mitigation region to prevent and mitigate flood damage within the region. Such program shall work in conjunction with existing flood assistance grant programs and supplement existing efforts by providing funds for adaptive measures to mitigate or eliminate a flood event.

3. Holding public hearings as it deems necessary to solicit relevant information and gather current research and data related to flooding and flood mitigation in the region as well as recommendations to fulfill the purposes of this article. The task force shall consult with the county offices of emergency management, county soil and water conservation districts and all other federal, state and local entities it deems necessary to fulfill the purposes of this article. In determining the number of public hearings to be held, the task force shall act diligently in order to meet the timeframe for first cycle awards under the upstate flood mitigation grant program established within section one hundred thirty-nine-d of this article.

4. The task force shall have the power to: (a) contract for professional and technical assistance and advice; (b) contract for and accept assistance including, but not limited to gifts, grants, easements, and loans of funds, real property and personal property from the federal government or any agency or instrumentality of the state, or from any other public or private source to comply, subject to the provisions of this article, with the terms and conditions thereof, subject to the approval of the division of budget; (c) hold public hearings; and (d) establish an upstate flood mitigation grant program to be administered by the canal corporation and based on the task force's evaluation, to fund grants within the upstate flood mitigation region to prevent and mitigate flood damage within the region.

5. Upon the request of the task force, all executive departments of the state and the canal corporation shall provide the task force with such facilities, assistance and data as will enable the task force to carry out its

powers and duties. Additionally, all other agencies of the state or subdivisions thereof shall, at the request of the chair, provide the task force with such facilities, assistance, and data as will enable the task force to carry out its powers and duties.

*NB Repealed March 31, 2020

§ 139-d. Upstate flood mitigation grant program.

1. The task force shall establish an upstate flood mitigation grant program to be administered by the canal corporation based on the task force's in-depth examination of flood control study sectors and issues related to floodplain management, debris management, flood control and flood mitigation in the upstate flood mitigation region. Such grant program shall be subject to appropriations.

2. The task force shall establish the upstate flood mitigation grant program structure that shall be administered by the canal corporation. Such program structure shall include, but not be limited to, the definition of eligible recipients, the definition of eligible projects, project application process, program maximum project award amounts, project cost sharing parameters and program funding cycles.

* NB Effective April 1, 2018

* NB Repealed March 31, 2020

Article XIV – Saving Clause; Laws Repealed

§ 140. Saving clause

1. The provisions of this chapter or the repeal of any statute thereby, shall not affect or impair any act done or right accrued or acquired, or any liability, penalty, forfeiture or punishment incurred or defense accrued, or established prior to its enactment. If any clause, sentence, paragraph or part of this chapter shall, for any reason, 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 or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

2. Any work or proceeding initiated under any existing law pertaining to canal matters shall be conducted legally to its termination and conclusion in the manner, subject to the provisions of and in accordance with the procedure prescribed by such law. It is the intent that upon the enactment of this chapter into law all work or proceedings undertaken thereafter relating to canal matters shall be administered under the authority and provisions contained in this chapter.

§ 141. Laws repealed

Chapter thirteen of the laws of nineteen hundred and nine, entitled “An act relating to canals, constituting chapter five of the consolidated laws,” and all acts amendatory thereof and supplemental thereto, and chapter sixty, laws of nineteen hundred and thirty-eight, relating to revocable permits, chapter six hundred fifty-five, laws of nineteen hundred and thirty-four relating to terminal facilities and storage, chapter three hundred thirty-eight, laws of nineteen hundred thirty-four, relating to disposition of terminals, are hereby repealed, but the repeal of such acts shall not revive any act or acts repealed by them; and no act or privilege heretofore granted or acquired and no limitation, restriction, reservation or obligation heretofore imposed by or under the

provisions of this or any of the acts hereby repealed, shall be impaired, invalidated or otherwise affected by such repeal.

§ 142. When to take effect

This act shall take effect immediately.

PUBLIC AUTHORITIES LAW

ARTICLE 5. PUBLIC UTILITY AUTHORITIES

TITLE 1. POWER AUTHORITY OF THE STATE OF NEW YORK

§ 1000. Short title

This title may be cited as the “Power Authority Act.”

§ 1001. Declaration of policy

Those parts of the Niagara and Saint Lawrence rivers within the boundaries of the state of New York are hereby declared to be natural resources of the state for the use and development of commerce and navigation in the interest of the people of this state and the United States. In order to provide for the most beneficial use of these natural resources, for the creation and development of hydroelectric power in the interest of the people of this state, and to preserve and enhance the scenic beauty of the Niagara Falls and river, such natural resources, including the beds and waters of the said rivers as instrumentalities of commerce and navigation, and the beds, waters, power and power sites in, upon or adjacent to or within the watersheds of the said rivers, owned or controlled by the people of the state, or which may hereafter be recovered by or come within their ownership, possession and control, shall always remain inalienable to, and ownership, possession and control thereof shall always be vested in, the people of the state.

It is further declared that the need for obtaining and maintaining a continuous and adequate supply of dependable electric power and energy is a matter of public concern to the people of the state; that the maximum capacity of the hydroelectric developments on the Niagara and Saint Lawrence rivers of the authority can be best utilized and additional public benefit derived therefrom by provision for supplemental base load nuclear generating facilities or facilities utilizing new energy technologies and that for the purposes (i) of so utilizing such capacity and of deriving such additional benefit, (ii) of providing additional low cost power and energy to attract and expand high load factor industry, (iii) of continuing an adequate supply of power and energy for the future needs of its municipal electric systems and rural electric cooperative customers, and (iv) of assisting in the development of additional dependable hydroelectric power from other waters of the state and in the development of advanced facilities having substantial prospects of reducing electricity production costs, the public interest requires that the authority participate in the generation of supplemental electric power and energy by energy storage, hydroelectric and nuclear means and new energy technologies to the extent authorized in this title.

It is further declared that there is a shortage of dependable power capacity in the southeastern part of the state and that the public interest requires that the authority assist in alleviating such shortage by providing such base load generating facilities as may be necessary or desirable to contribute to the maintenance of an adequate and dependable supply of electricity for the metropolitan transportation authority, its subsidiary corporations, the New York city transit authority, the port authority of New York and New Jersey, the city of New York, the state of New York, the United States, other public corporations and electric companies within the metropolitan area of the city of New York within the state of New York.

It is further declared (i) that there should be full cooperation among private and public entities including the authority, municipal corporations and rural electric cooperatives engaged in power generation, transmission and distribution and in associated developmental and service activities, (ii) that it is desirable that the authority and the utilities which with the authority constitute the New York power pool exchange comparable cost, performance and operating data with respect to generation by nuclear means particularly reflecting the effect of the authority’s tax-free status, (iii) that it is desirable and reasonable that the authority sell power and energy from its projects other than the Niagara and Saint Lawrence hydroelectric

projects, not needed for its high load factor industrial, municipal, rural electric cooperative and public transportation customers to other members of the New York power pool for resale without discrimination under their respective tariffs, (iv) that it is desirable that the authority give its fullest cooperation to the energy research and development authority in advancing and promoting the development and implementation of new energy technologies, and shall fulfill its responsibilities for the development and maintenance of increased base load for New York state to the greatest extent possible by utilizing new energy technologies made available by the energy research and development authority to the extent deemed advisable by the trustees and, (v) that upon certification by the public service commission of the commercial and economic feasibility of a new electrical energy generating technology the power authority shall, in a manner consistent with its powers and purposes, promptly plan and construct a facility to demonstrate such new technology; except, however, the authority may plan and construct such demonstration facility in the absence of such certification.

§ 1001-a. Emergency provisions for the metropolitan area of the city of New York

The legislature hereby finds and declares that extraordinary circumstances, including excessive costs, shortages of supply, and the inflated price of fuel threaten the capacity to provide utility service essential to the continued safety, health, prosperity and well-being of the people of the metropolitan area of the city of New York and, by reason of the interconnection and interdependence of electric facilities, the reliability of such service throughout the state and require emergency action by the state and its agencies. It is therefore declared that:

1. To preserve reliability of electric service in the metropolitan area of the city of New York and throughout the state and to assist in deterring further extraordinary increases in rates for electric service the authority should provide such supplemental electricity for such use in the metropolitan area of the city of New York as is consistent with continuing and maintaining the exemption of interest on authority bonds from the income tax imposed by the Internal Revenue Code of the United States and regulations and ruling thereunder.
2. It is essential that such electricity be provided at the earliest practicable time.
3. The authority should be authorized to acquire completed or partially completed generation, transmission and related facilities and fuel and fuel contracts.
4. Any cost savings realized in the production or delivery of electricity by reason of any such acquisition by the authority shall be passed on to consumers.

§ 1002. Power Authority of the State of New York

1. For the purpose of effectuating the policy declared in section one thousand one of this chapter there is hereby created a corporate municipal instrumentality of the state to be known as “Power Authority of the State of New York”, in this title referred to as “the authority”, which shall be a body corporate and politic, a political subdivision of the state, exercising governmental and public powers, perpetual in duration, capable of suing and being sued, and having a seal, and which shall have the powers and duties hereinafter enumerated, together with such others as may hereafter be conferred upon it by law.

2. It shall report annually to the governor and the legislature upon its operations and transactions. Such annual report shall incorporate the requirements of section two thousand five hundred of this chapter, shall identify the authority by its statutory name, and include a letter of transmittal in the report to the

governor and the legislature. The annual report shall also include, but not be limited to, the following: (a) the amount of power and energy produced by each project facility; (b) the amount of energy transferred between each project facility for use within the authority's system; (c) the amount of energy transferred between each project facility for sale outside the authority's system; (d) the kilowatt-hour sales by project facility and by customer including all intrastate sales to investor-owned electric corporations, municipal electric systems and rural electric cooperatives, and all sales on a temporary (i.e., eighteen months or less) basis; (e) the revenues and costs as allocated by the authority for each project facility; (f) the busbar price or prices for power and energy sold to each customer of the authority; (g) the accumulated provision for depreciation for each project facility; and (h) basic financial and operating information specifically detailed for the reporting year and including but not limited to income and expense statements, balance sheets, and changes in financial position, all in accordance with generally accepted accounting principles, debt structure and a summary of funds on a cash basis. The requirement to provide information pursuant to this subdivision is not intended to affect the authority's responsibilities or obligations under this title or under any rate covenant or any pledge of revenues outstanding as of the effective date of the chapter of the laws of nineteen hundred eighty-four which added this sentence to this subdivision.

§ 1003. Trustees

The authority shall consist of seven trustees, five of whom shall serve respectively for terms of one, two, three, four and five years, to be appointed by the governor, by and with the advice and consent of the senate. The sixth and seventh trustees shall be appointed by the governor, by and with the advice and consent of the senate, and shall serve initial terms of one and two years respectively. Each trustee shall hold office until a successor has been appointed and qualified. At the expiration of the term of each trustee and of each succeeding trustee the governor shall, by and with the advice and consent of the senate, appoint a successor, who shall hold office for a term of five years, or until a successor has been appointed and qualified. In the event of a vacancy occurring in the office of the trustee by death, resignation or otherwise, the governor shall, by and with the advice and consent of the senate, appoint a successor, who shall hold office for the unexpired term. Four trustees shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof.

The trustee chosen as chairman as provided in section one thousand four of this title, shall receive an annual salary which shall be set by the trustees of the authority, and which shall not exceed the salary prescribed for the positions listed in paragraph (f) of subdivision one of section one hundred sixty-nine of the executive law. Each other trustee shall not receive a salary or other compensation. Each trustee shall receive his or her reasonable expenses in the performance of his or her duties hereunder. The trustee chosen as chairman may elect to become a member of the New York state and local employees' retirement system on the basis of such compensation to which he or she shall be entitled as herein provided notwithstanding the provisions of any general, special or local law, municipal charter, or ordinance.

§ 1004. Officers and employees; expenses

The trustees shall choose from among their own number a chairman and vice-chairman. They shall select such officers and employees, including a chief executive officer whose appointment shall be subject to confirmation by the senate in accordance with section twenty-eight hundred fifty-two of this chapter, and such engineering, marketing and legal officers and employees, as they may require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee. They shall adopt by-laws and rules and regulations suitable to the purposes of this title. As long as and to the extent that the authority is dependent upon appropriations for the payment of its expenses, it shall incur no obligations for salary, office or other expenses prior to the making of appropriations adequate to meet the same.

§ 1005. Powers and duties of authority

Forthwith upon the appointment and organization of the trustees and subject to the conditions and limitations in this title contained, the authority, in cooperation with the proper Canadian authorities and those of the United States as hereinafter directed, shall proceed with the improvement and development of the Niagara river and the international rapids section of the Saint Lawrence river (which is defined as that part of the said river from Ogdensburg to the point where it leaves the territory of this state) for the aid and benefit of commerce and navigation and for the development of the hydroelectric power inherent therein in accordance with the provisions of this title.

The authority is authorized to procure through a competitive solicitation process power and energy from the competitive market and to construct, improve and/or rehabilitate throughout its area of service (a) such hydroelectric or energy storage projects, as it deems necessary or desirable to contribute to the adequacy, economy and reliability of the supply of electric power and energy or to conserve fuel and (b) such base-load nuclear generating facilities or other facilities utilizing new energy technologies as in its judgment are necessary (i) to supply sufficient supplemental energy to make possible optimum use of the generating capacity of the authority's Saint Lawrence and Niagara hydroelectric projects, (ii) to supply low cost power and energy to high load factor manufacturers which will build new facilities in the authority's area of service or expand existing facilities provided such power and energy is made available to them, and (iii) to supply the future needs of the authority's existing municipal electric and rural electric cooperative customers.

The authority is further authorized to construct and/or acquire and complete such base load generating, transmission and related facilities as it deems necessary or desirable to assist in maintaining an adequate and dependable supply of electricity by supplying power and energy for the metropolitan transportation authority, its subsidiary corporations, the New York city transit authority, the port authority of New York and New Jersey, the city of New York, the state of New York, the United States, other public corporations and electric corporations within the metropolitan area of the city of New York within the state of New York; provided, however, that (i) the acquisition of completed or partially completed facilities shall be after public hearing and shall be limited to facilities located in New York city or Westchester county and the energy and power generated by such facilities shall be used, to the extent feasible, for the benefit of electric consumers in that area, (ii) not more than one such generating facility shall be acquired in each of New York city and Westchester county, (iii) the price to be paid pursuant to any agreement entered into with respect to the purchase, appropriation or condemnation of any such completed or partially completed facility, as the case may be, shall be subject to the approval of the state comptroller and (iv) transmission facilities shall not be so acquired pursuant to this paragraph unless such acquisition is necessary to assure delivery of power and energy produced by any acquired generating facility. The authority is further authorized, to the extent it deems it necessary or desirable, to provide power and energy, as it may determine it to be available, for the use by the Niagara frontier transportation authority or its subsidiary corporation. The authority is authorized to make energy efficiency services, clean energy technologies and, in the event that supplies of power and energy are determined to be available from the competitive market for this purpose, power and energy, available to public and nonpublic elementary and secondary schools throughout the state.

A high load factor manufacturer is one which normally utilizes a minimum electric demand of five thousand kilowatts and which will normally utilize energy at the rate of approximately five hundred forty kilowatt hours per month for each kilowatt of demand and of which the cost of electricity normally represents at least seven and one-half percent of its total product value.

The authority shall publish notice of any proposed allocation of firm power and associated energy except such allocations as are subject to the provisions of section one thousand nine of this chapter, at least thirty

days prior to the delivery of any energy pursuant thereto, which notice shall, in the case of industrial allocations, document actions by the authority pertaining thereto including solicitation for competing proposals. In addition, such notice shall be transmitted to the temporary president of the senate, the speaker of the assembly, and the respective fiscal committees of the legislature.

Notwithstanding any inconsistent provision of law, the authority is authorized to enter into contracts prior to July first, nineteen hundred eighty-five to allocate a total of not more than thirty-six megawatts of power and associated energy, available for allocation as a result of voluntary relinquishment by high load factor manufacturers, of such power and associated energy from base load nuclear generating facilities of the authority, to furnish electricity to no more than three customers which: (a) are located in the southeastern portion of the state; (b) will build new facilities and/or expand existing facilities; (c) will expand employment and investment in the state; and (d) will normally utilize a minimum peak electrical demand of one thousand kilowatts.

The authority is further authorized to construct such generating, transmission and related facilities within the service area of the Long Island power authority, as the authority, in consultation with and upon such terms and conditions as the Long Island power authority, deems necessary or desirable.

Periodically, but no less often than annually, the authority is authorized and directed to identify the net revenues produced by the sale of expansion power and further to identify an amount of the net revenues from the sale of expansion power which amount shall be used solely for industrial incentive awards. Notwithstanding other lawful purposes for which such revenues may be used, it shall be the preferred purpose of the authority to make available all such net revenues for industrial incentive awards. Provided, however, that industrial incentive awards shall be made only in conformance with an economic development plan covering all such net revenues which is submitted no less often than annually by the authority and approved pursuant to section one hundred eighty-eight of the commerce law.¹ For purposes of this paragraph, the term net revenues shall mean any excess of revenues properly allocated to the sales of expansion power over costs and expenses properly allocated to such sales.

Notwithstanding any inconsistent provision of this title, the authority shall make available all economic development power for allocation to or for businesses whose allocation of such power is recommended by the New York state economic development power allocation board pursuant to section one hundred eighty-seven of the commerce law. If the authority declines to make power available to or for a business whose allocation has been so recommended, the authority shall decline within the period specified by the board in its recommendation and shall issue in writing a statement of reasons for such denial.

- a. Economic development power shall mean any power generated at the Fitzpatrick nuclear project that is voluntarily relinquished by businesses.
- b. The authority shall report quarterly to the New York state economic development power allocation board on the anticipated availability of economic development power for the subsequent twelve-month period.
- c. When the authority determines that economic development power is available, the authority shall notify the New York state economic development power allocation board.
- d. The authority shall provide for the sale of power from the Fitzpatrick nuclear project to its industrial, business, and economic development power customers at a uniform non-discriminatory rate.

The authority is further authorized, as deemed feasible and advisable by the trustees, to acquire, maintain, manage, operate, improve and reconstruct as a project or projects of the authority one or both of the steam

generation facilities owned by the state known as the Sheridan avenue steam generating plant on Sheridan avenue in the city of Albany and used to supply steam to state facilities, together with any properties, buildings and equipment at the sites thereof or ancillary thereto, for the generation and sale of thermal energy and the cogeneration and sale of electricity for use by facilities of the state within the county of Albany. All the authority's costs, including its acquisition, capital, operating and maintenance costs, shall be recovered fully from the customers receiving service from such project or projects. Thermal energy and electricity not required by the state may be sold by the authority to others. The authority is not authorized to use refuse or refuse-derived fuel in operating the project or projects. Any agreement for such acquisition shall insure that the authority is not liable or otherwise responsible for circumstances arising from the prior operation of such facilities. The acquisition and purchase of such land, buildings and equipment by the authority, and any actions taken to effect such acquisition and purchase, are hereby exempt from the provisions of article eight of the environmental conservation law. The application of such exemption shall be strictly limited to the acquisition and purchase of such land, buildings and equipment by the authority and such agreements with the state. Nothing herein shall exempt the authority from otherwise applicable laws respecting the expansion, conversion, operation and maintenance of such land, buildings and equipment.

The authority is authorized and directed:

1. To cooperate with the appropriate agencies and officials of the United States government to the end that any hydroelectric project on the Niagara or Saint Lawrence rivers undertaken under this title shall be consistent with and in aid of any plans of the United States for the improvement of commerce and navigation along such rivers and shall be so planned and constructed as to be adaptable to the plans of the United States therefor, so that the necessary channels, locks, canals, and other navigational facilities may be constructed and installed by the United States, in, through, and as part of such project.
2. To negotiate with the appropriate Canadian authorities and agencies respecting the improvement and development of the Niagara river, and international rapids section of the Saint Lawrence river for the aid and benefit of commerce and navigation and the development of hydro-electric power therefrom, and to plan and agree with them upon cooperative action to that end including any shifting of international boundary lines between Canada and the United States and upon the use, control and disposition of the facilities to be created and the hydro-electric power to be developed by any project constructed in such rivers. Such negotiations and agreements shall be conducted and concluded with due regard to the position of the United States in respect to international agreements, and any such agreements as may be reached with Canadian authorities or agencies may be submitted by the authority to congress for its approval, if it be advised that such approval is necessary or desirable.
3. To apply to the appropriate agencies and officials of the United States government and/or of Canada or its provinces, including the federal power commission, the atomic energy commission, and the international joint commission, for such licenses, permits or approval of its plans or projects as it may deem necessary or advisable, and in its discretion, and upon such terms and conditions as it may deem appropriate, to accept such licenses, permits or approvals as may be tendered to it by such agencies or officials and such federal or other public or governmental assistance as is now or may hereafter become available to it; and to enter into contracts with such agencies or officials or utility companies relating to the construction or operation of any project authorized by this title. Neither the authority nor any trustee, officer or agent thereof shall have any power to waive or surrender for any purpose whatsoever any right of the state of New York, whether sovereign or proprietary in character, in and to the Niagara and Saint Lawrence rivers, their waters, power, channels, beds, or uses, or the right of the state to assert such rights at any future time; provided, however, that nothing herein contained shall be construed as limiting the power of the authority to accept licenses issued by the federal power commission pursuant to the provisions of the federal power act, as amended, or by the atomic energy commission pursuant to the

provisions of the atomic energy act of 1954, as amended, and the terms and conditions therein imposed pursuant to law. If for any reason the authority shall fail to secure any such license, permit or approval as it may deem necessary or advisable, or shall decide not to make application therefor, it is authorized to institute suit, or to apply to congress for legislation, or take such other action in the premises as it may deem necessary or advisable, in the furtherance of the project and for the protection of its rights and those of the state.

4. To study the desirability and means of attracting industry to the state of New York.

5. To develop, maintain, manage and operate those parts of the Niagara and Saint Lawrence hydroelectric projects owned or controlled by it in such manner as to give effect to the policy hereby declared (and all plans and acts, and all contracts for the use, sale, transmission and distribution of the power generated by such projects, shall be made in the light of, consistent with and subject to this policy), namely, that such projects shall be in all respects for the aid, improvement, and benefit of commerce and navigation in, through, along and past the Niagara river, the Saint Lawrence river and the international rapids section thereof, and that in the development of hydro-electric power therefrom such projects shall be considered primarily as for the benefit of the people of the state as a whole. In furtherance of this policy and to secure a wider distribution of such power and use of the greatest value to the general public of the state, the authority shall in addition to other methods which it may find advantageous make provision so that municipalities and other political sub-divisions of the state now or hereafter authorized by law to engage in the distribution of electric power may secure a reasonable share of the power generated by such projects, and shall sell the same or cause the same to be sold to such municipalities and political subdivisions at prices representing cost of generation, plus capital and operating charges, plus a fair cost of transmission, all as determined by the trustees, and subject to conditions which shall assure the resale of such power at the lowest possible price, provided, however, that in disposing of hydro-electric power pursuant to and in furtherance of the aforementioned policy and purposes, appropriate provision may also be made to allocate a reasonable share of project power to agencies created or designated by other states and authorized to resell the power to users under the same terms and conditions as power is disposed of in New York state. To that end, the authority may provide in any contract or contracts which it may make for the sale, transmission and distribution of the power that the purchaser, transmitter or distributor shall construct, maintain and operate, on such terms as the authority may deem proper, such connecting lines as may be necessary for transmission of the power from main transmission lines to such municipalities or political subdivisions.

Contracts for the sale, transmission and distribution of power generated by such projects shall provide for the effectuation of the foregoing policy and shall provide:

- a. Payment of all operating and maintenance expenses of the project.
- b. Interest on and amortization and reserve charges sufficient within fifty years of the date of issuance to retire the bonds of the power authority issued for the project.
- c. Continuous control and operation of the project by the authority.
- d. The effectuation of the policy declared in this sub-paragraph.
- e. Full and complete disclosure to the authority of all factors of cost in the transmission and distribution of power, so that rates to consumers may be fixed initially in the contract and may be adjusted from time to time on the basis of true cost data, provided that in fixing such cost of transmission and distribution no account shall be given to any franchise value, going value or good-will based upon the existence of the

contract and the availability of the power for sale by the transmitting or distributing company or any company associated therewith.

f. Periodic revisions of the service and rates to consumers on the basis of accurate cost data obtained by such accounting methods and systems as shall be approved by the trustees and in furtherance and effectuation of the policy declared in this sub-paragraph.

g. That the rates, services and practices of the purchasing, transmitting and/or distributing public agencies or companies in respect to the power generated by such projects shall be governed by the provisions and principles established in the contract, and not by regulations of the public service commission or by general principles of public service law regulating rates, services and practices and that in the event any such public agencies or companies which purchase power from the authority shall sell any such power for resale, such sale for resale shall be made at rates no higher than those at which the power was purchased from the authority.

h. The rate structures agreed upon in such contract may provide different rates for different localities, classes of consumers, and amounts of current consumed, and for changes in the rates resulting from variation in operating costs and fixed charges.

i. For the cancellation and termination of any such contract upon violation of the terms thereof by the purchasing, transmitting or distributing public agency or company, or any subsidiary or associate thereof.

j. For such security for performance as the authority may deem practicable and advisable, including provisions assuring the continuance of service by the purchasing, transmitting and/or distributing public agencies or companies and/or the use of their facilities for such service and/or the continuance of an outlet and adequate market for the power generated by such projects.

k. Such other terms not inconsistent with the provisions and policy of this title as the authority may deem advisable.

6. To develop, maintain, manage and operate its projects other than the Niagara and Saint Lawrence hydroelectric projects so as (i) to provide an adequate supply of energy for optimum utilization of its hydroelectric projects, (ii) to attract and expand high load factor industry, (iii) to provide for the additional needs of its municipal electric and rural electric cooperative customers, (iv) to provide a supply of power and energy for use in the recharge New York power program as recharge New York market power, and (v) to assist in maintaining an adequate, dependable electric power supply for the state.

Contracts for the sale, transmission and distribution of power and energy generated by such projects shall provide for the effectuation of the policy set forth in this title relating to such projects and shall provide:

a. Payment of all operating and maintenance expenses of the projects.

b. Interest on and amortization and reserve charges sufficient within fifty years of the date of issuance to retire the bonds of the authority issued for the projects.

c. For the cancellation and termination of any such contract upon violation of the terms thereof by the purchasing, transmitting or distributing public agency or company, or any subsidiary thereof.

d. That the rates, services and practices of the purchasing, transmitting and/or distributing public agencies and rural electric cooperatives in respect to the power and energy from such projects shall be governed by the provisions and principles established in the contract, and not by regulations of the public service

commission or by general principles of public service law regulating rates, services and practices and that in the event any such public agencies or cooperatives which purchase power from the authority shall sell any such power for resale, such sale for resale shall be made at rates no higher than those at which the power was purchased from the authority.

e. In the case of a contract with an electric corporation entered into on or after May first, nineteen hundred seventy-four (i) for assurances by the electric corporation of prompt and timely payment of all bills rendered by the authority and that failure to make such prompt and timely payment shall be grounds for immediate termination of the contract, and (ii) that in the event the contract is so terminated, the electric company will wheel to such purchasers as the authority may direct the power and energy that would have been sold to the electric company had the contract not been terminated.

f. Such other terms not inconsistent with the provisions and policy of this title as the authority may deem advisable.

7. To proceed with the physical construction or completion of any project authorized by this title, including the erection of the necessary dams, power houses and other facilities, instrumentalities and things necessary or convenient to that end, and including also the erection of such transmission lines as may be necessary to conduct electricity to users located at or near the site; and including also the acquisition, by contract only with the owners thereof, of transmission lines or the use of such transmission lines, available or which may be made available, to conduct electricity to such point or points at which the electricity is sold by the authority to any person, corporation or association, public or private, engaged in the business of distribution and sale of electricity to ultimate consumers or if the authority is unable to so acquire by contract the ownership or use of such transmission lines, including also the erection by the authority of transmission lines necessary for such purposes; and thereafter to maintain and operate the project in accordance with the provisions and policy of this title. The authority is specifically authorized to undertake the construction of any project in one or more steps as it may find economically desirable or advantageous, and as it may agree with the appropriate Canadian and/or United States authorities. Whenever in this title reference is made to "project", it shall be understood to refer to such part of any project authorized by this title as may from time to time be in existence or immediately projected.

8. To cooperate with and, when the trustees deem it feasible and advisable, to enter into contractual arrangements with utility companies;

a. With respect to construction and operation of pumped storage facilities by the authority and supply of all or part of the necessary pumping energy by the utilities and their purchase of all or part of the output.

b. With respect to construction, completion, acquisition, ownership and/or operation of baseload generating facilities, fuel, docks, sidings, loading or unloading equipment, storage facilities and other subsidiary facilities and disposition of the output of such generating facilities.

c. With respect to construction, acquisition, ownership, operation and/or use of transmission facilities.

9. To cooperate with and, when the trustees deem it feasible and advisable, to enter into contractual arrangements with municipal corporations with respect to construction, improvement, rehabilitation, ownership and/or operation of hydroelectric generating facilities and subsidiary facilities and disposition of the output of such generating facilities.

10. To cooperate with and, when the trustees deem it feasible and advisable, to enter into contractual arrangements with New York state energy research and development authority in connection with the

planning, siting, development, construction, operation and maintenance of generating facilities of the authority utilizing new energy technologies to the extent such action is consistent with the purposes and powers granted by law to New York state energy research and development authority.

10-a. a. To cooperate with and, when the trustees deem it feasible and advisable, enter into contracts with an owner or operator of a “class A” multiple dwelling, as defined in subdivision eight of section four of the multiple dwelling law, to administer and finance programs for the development, design, installation and provision of financial assistance with respect to the replacement of refrigerators with more energy efficient refrigerators; provided that no costs associated with such financial assistance shall be charged to the authority’s customers. Financial assistance shall be repaid to the authority, over a period not to exceed ten years, based on projected savings in energy costs and related costs which accrue to the owner as a result of installing such measures and consistent with paragraph b of this subdivision.

b. If the owner of such multiple dwelling is a customer of the authority or of an electric corporation, as defined in subdivision thirteen of section two of the public service law, and if the refrigerator is provided by the owner, and if charges for electricity are included within the rent that the tenant pays to occupy such dwelling, the owner of such dwelling shall repay the authority for such financial assistance based on projected savings in energy costs that are estimated to accrue to the owner as a result of such replacement. As a condition of participating in the program established by this subdivision, such owner shall agree to be precluded from charging any additional fee or collecting any rent increase to such tenant as a result of such replacement.

11. To exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this title; and as incidental thereto to own, lease, build, operate, maintain and dispose of real and personal property of every kind and character, to acquire real property and any or every interest therein for its lawful purposes by purchase, or by condemnation as hereinafter provided, to borrow money and secure the same by bonds or liens upon revenue from any property or contracts held or to be held by it, to sell water or electric power, and generally to do any and everything necessary or convenient to carry out the purposes of this title, provided that the authority shall have no power at any time to pledge the credit of the state nor shall any of its obligations or securities be deemed to be obligations of the state nor shall the authority have the power to lease or sell any dam, or power house at the site.

12. Notwithstanding any limitations hereinbefore expressed, the authority is authorized and directed forthwith or from time to time as it shall deem advisable and within the limitations of the appropriations made available for it to initiate and prosecute all inquiries, investigations, surveys and studies which it may deem necessary or desirable as preliminary to the effectuation of the other powers and duties conferred upon it by this title.

13. Notwithstanding any other provision of law to the contrary but subject to the terms and conditions of federal energy regulatory commission licenses, to allocate or reallocate directly or by sale for resale, two hundred fifty megawatts of firm Niagara project hydroelectric power as “expansion power” and four hundred forty-five megawatts of firm Niagara project hydroelectric power as “replacement power” to businesses within the state located within thirty miles of the Niagara project, and four hundred ninety megawatts of firm and interruptible power from the Saint Lawrence-FDR project as “preservation power” sold to businesses located within the counties of Jefferson, Saint Lawrence and Franklin, provided that the amount of expansion power allocated to businesses in Chautauqua county on January first, nineteen hundred eighty-seven shall continue to be allocated in such county and, provided further that up to seventy megawatts of replacement power, up to thirty-eight and six-tenths megawatts of preservation power from the Saint Lawrence-FDR project which is relinquished or withdrawn after the effective date of chapter three hundred thirteen of the laws of two thousand five which amended this subdivision and, for the period ending on December thirty-first, two thousand six, up to twenty megawatts of other power from the Saint Lawrence-FDR project which is unallocated as of the effective date of chapter three

hundred thirteen of the laws of two thousand five which amended this subdivision, shall be allocated by the authority together with such other funds of the authority as the trustees deem feasible and advisable for energy cost savings benefits pursuant to the twelfth undesignated paragraph of this section. Provided, however, that the amount of replacement, preservation power, or the additional twenty megawatts of Saint Lawrence-FDR power for the period ending December thirty-first, two thousand six made available for such purpose, used for energy cost savings benefits that are relinquished by or withdrawn from a recipient thereof shall be offered by the authority proportionately for a period of six months for reallocation to applicants who qualify respectively for replacement or preservation power allocations as provided in this subdivision. If such power is not allocated within such period it shall be allocated for the purpose of energy cost savings benefits pursuant to subdivision (h) of section one hundred eighty-three of the economic development law. The authority shall negotiate contracts on reasonable terms and conditions to renew or extend every permanent contract allocation of expansion power in effect on the effective date of this subdivision and, to the extent consistent with such contracts, the authority shall negotiate contracts on reasonable terms and conditions to extend or renew all other allocations or allotments of such power in effect on such date. The authority shall negotiate contracts on reasonable terms and conditions to renew or extend for a period of at least five years every permanent contract allocation of replacement power in effect on the effective date of chapter three hundred thirteen of the laws of two thousand five which added this sentence and that would expire by its terms on or before the end of the initial federal energy regulatory commission license for the Niagara project; provided that, in negotiating the terms and conditions of such contracts, the authority may consider a business' compliance with all current contractual obligations, including employment and power usage commitments. Contracts entered into pursuant to this subdivision shall contain reasonable provisions providing for the partial or complete withdrawal of the power in the event the recipient fails to maintain mutually agreed levels of employment, investment, and power utilization. Expansion or replacement power relinquished by businesses or withdrawn by the authority shall be allocated directly or by sale for resale by the authority to businesses within the state located within thirty miles of the Niagara project provided, that the amount of power allocated to businesses in Chautauqua county on January first, nineteen hundred eighty-seven shall be allocated in such county. Preservation power that is relinquished by businesses or withdrawn by the authority shall be allocated directly or by sale for resale by the authority within the counties of Jefferson, Saint Lawrence and Franklin. Allocations made pursuant to this paragraph shall be made in accordance with criteria established by the trustees. Such criteria shall address the expansion of industry and employment pursuant to paragraph (a) of this subdivision and the revitalization of existing industry pursuant to paragraph (b) of this subdivision.

(a) Criteria for eligibility for expansion, replacement and preservation power. Each application for an allocation for expansion, replacement or preservation power shall be evaluated by the trustees under criteria which shall include but need not be limited to:

- (1) the number of jobs created as a result of a power allocation;
- (2) the business' long term commitment to the region as evidenced by the current and/or planned capital investment in business' facilities in the region;
- (3) the ratio of the number of jobs to be created to the amount of power requested;
- (4) the types of jobs created, as measured by wage and benefit levels, security and stability of employment;
- (5) the amount of capital investment, including the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed;

(6) the extent to which a power allocation will affect the overall productivity or competitiveness of the business and its existing employment;

(7) the extent to which an allocation of power may result in a competitive disadvantage for other business in the state;

(8) the growth potential of the business facility and the contribution of economic strength to the area in which the business facility is or would be located;

(9) the extent of the business' willingness to make jobs available to persons defined as eligible for services under the federal job training partnership act of nineteen hundred eighty-two and the extent of the business' willingness to satisfy affirmative action goals;

(10) the extent to which an allocation of power is consistent with state, regional and local economic development strategies and priorities and supported by local units of government in the area in which the business is located; and

(11) the impact of the allocation on the operation of any other facilities of the business, on other businesses within the region, and upon other electric ratepayers.

(b) Revitalization. In addition to the criteria provided in paragraph (a) of this subdivision the trustees shall establish special criteria for the evaluation of applications for power allocated for the revitalization of industry. Such criteria shall include, but need not be limited to:

(1) that the business is likely to close, partially close or relocate resulting in the loss of a substantial number of jobs;

(2) that the business is an important employer in the community and efforts to revitalize the business are in long-term interests of both employers and the community;

(3) that a reasonable prospect exists that the proposed allocation of power will enable the business to remain competitive and become profitable and preserve jobs for a substantial period of time;

(4) that the applicant demonstrates cooperation with the local electricity distributor and other available sources of assistance to reduce energy costs to the maximum extent practicable, through conservation and load management; and

(5) that the allocation will not unduly affect the cost of electric service to customers of the local electricity distributor.

13-a. Recharge New York power program. (a) Notwithstanding any other provision of law to the contrary, but subject to the terms and conditions of federal energy regulatory commission licenses, to allocate, reallocate or extend, directly or by sale for resale, up to nine hundred ten megawatts of recharge New York power to eligible applicants located within the state of New York upon the recommendation of the New York state economic development power allocation board pursuant to section one hundred eighty-eight-a of the economic development law.

(b) Recharge New York power shall mean and consist of equal amounts of (1) four hundred fifty-five megawatts of firm hydroelectric power from the Niagara and Saint Lawrence hydroelectric projects to be withdrawn, as of the earliest date such power may be withdrawn consistent with contractual requirements,

from utility corporations that, prior to the effective date of this subdivision, purchased such power for the benefit of their domestic and rural consumers (“recharge New York hydropower”), and (2) power procured by the authority through market sources, a competitive procurement process, or authority sources (other than the Niagara and Saint Lawrence projects) (collectively or individually, “recharge New York market power”); provided, however, that if such recharge New York market power comes from authority sources, the use of that power shall not reduce the availability of, or cause an increase in the price of, power provided by the authority for any other program authorized in this article or pursuant to any other statute.

(c) Notwithstanding section one thousand nine of this title or any other provision of law to the contrary, the authority is authorized, beginning July first, two thousand twelve, to make available, contract with and sell to such eligible applicants as are recommended by the economic development power allocation board up to nine hundred ten megawatts of recharge New York power for recharge New York power allocations. A recharge New York power allocation shall consist of equal parts of recharge New York hydropower and recharge New York market power as such terms are defined in paragraph (b) of this subdivision; provided, however, that prior to entering into a contract with an eligible applicant for the sale of recharge New York power, and prior to the provision of electric service relating to the recharge New York power allocation, the authority shall offer each eligible applicant the option to decline to purchase the recharge New York market power component of such allocation. If an eligible applicant declines to purchase such market power from the authority, the authority shall have no responsibility for supplying such market power to the eligible applicant.

13-b. Residential consumer discount programs. (a) Residential consumer electricity cost discount. Notwithstanding any provision of this title or article six of the economic development law to the contrary, the authority is authorized, as deemed feasible and advisable by the trustees, to use revenues from the sale of hydroelectric power, and such other funds of the authority as deemed feasible and advisable by the trustees, to fund monthly payments to be made for the benefit of such classes of electricity consumers as enjoyed the benefits of authority hydroelectric power withdrawn pursuant to subdivision thirteen-a of this section, for the purpose of mitigating price impacts associated with the reallocation of such power in the manner described in this subdivision. Such monthly payments shall commence after such hydroelectric power is withdrawn. The total annual amount of monthly payments for each of the three twelve month periods following withdrawal of such hydroelectric power shall be one hundred million dollars. The total annual amount of monthly payments for each of the two subsequent twelve month periods shall be seventy million dollars and fifty million dollars, respectively. Thereafter, the total annual amount of monthly payments for each twelve month period shall be thirty million dollars. The total amount of monthly payments shall be apportioned by the authority among the utility corporations that, prior to the effective date of this subdivision, purchased such hydroelectric power for the benefit of their domestic and rural consumers according to the relative amounts of such power purchased by such corporations. The monthly payments shall be credited to the electricity bills of such corporations’ domestic and rural consumers in a manner to be determined by the public service commission of the state of New York. The monthly credit provided by any such corporation to any one consumer shall not exceed the total monthly electric utility cost incurred by such consumer.

(b) Agricultural consumer electricity cost discount. (1) Beginning with the second twelve month period after such hydroelectric power is withdrawn, up to eight million dollars of the residential consumer electricity cost discount established by paragraph (a) of this subdivision shall be dedicated for monthly payments to agricultural producers who receive electric service at the residential rate. The total amount of monthly payments shall be apportioned by the authority among the utility corporations in the same manner as they are apportioned in paragraph (a) of this subdivision. Monthly payments shall be credited to the electricity bills of such corporations’ agricultural consumers in a manner to be determined by the public service commission of the state of New York. The combined monthly credit, under this paragraph

and paragraph (a) of this subdivision, provided by any such corporation to any one consumer shall not exceed the total monthly electric utility cost incurred by such consumer.

(2) The authority shall work cooperatively with the department of public service to evaluate the agricultural consumer electricity cost discount, which shall include an assessment of the benefits to recipients compared to the benefits the recipients received from the authority's hydroelectric power, withdrawn pursuant to subdivision thirteen-a of this section, during the twelve month period ending December thirty-first, two thousand ten, and compared to other agricultural consumers that did not choose to receive the discount.

(c) Energy efficiency program. (1) Beginning with the withdrawal of such hydroelectric power, the authority or the New York state energy research and development authority, shall conduct an energy efficiency program for five years to provide energy efficiency improvements for the purpose of reducing energy consumption for domestic and rural consumers. Such energy efficiency program may be undertaken in cooperation with other energy efficiency programs offered by utility corporations, state agencies and authorities including but not limited to the New York state energy research and development authority; provided however that energy savings attributable to such other energy efficiency programs shall not be included in determining the amount of energy saved pursuant to the program established by this paragraph;

(2) The authority or the New York state energy research and development authority shall annually post on their website a report evaluating the energy efficiency program, including but not limited to, the number of domestic and rural consumers who opted to participate in the program and, if practicable, the estimated savings the domestic and rural consumers received by participating in the energy efficiency program.

14. To provide to the governor, to the speaker of the assembly, and to the temporary president of the senate, on or before April first of each year, an economic development report including projections for the next succeeding twelve months of the amount of economic development power which will be or is expected to be available with a listing of the current recipients of that power, and data on the number and types of jobs resulting from allocation of economic development power. Such report shall also include the amount of revenues collected and used in the previous calendar year pursuant to the eighth unnumbered paragraph of this section.

15. To provide low cost electricity, as well as energy efficiency and conservation services and facilities using conventional or new energy technologies, to the following military establishments within the state: Fort Drum, Fort Hamilton, United States Academy at West Point, Watervliet Arsenal, Niagara Falls Air Reserve Base, Air Force Research Laboratory at Rome, Defense Finance Accounting Services at the former Rome Air Force Base, North East Air Defense Sector, Stewart Air National Guard Base, Hancock Field Air National Guard Base, Stratton Air National Guard Base and Air National Guard Base at Francis S. Gabreski Airport. Services provided pursuant to this section shall be provided only to support United States Department of Defense activities as they are conducted at such facilities. The authority may enter into contracts with the United States, its agencies and instrumentalities, and other public and private entities to effectuate the foregoing.

16. To complete a biennial energy plan in accordance with the provisions of article six of the energy law. In addition to any requirements of article six of the energy law, the authority shall provide copies of its biennial energy plan to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the assembly committee on energy and the chair of the senate committee on energy and telecommunications. Further, the authority shall cooperate and participate in the state energy planning procedures as enumerated in article six of the energy law.

17. (a) As deemed feasible and advisable by the trustees, to finance and design, develop, construct, implement, provide and administer energy-related projects, programs and services for any public entity, any independent not-for-profit institution of higher education within the state, and any recipient of the economic development power, expansion power, replacement power, preservation power, high load factor power, municipal distribution agency power, power for jobs, and recharge New York power programs administered by the authority. In establishing and providing high performance and sustainable building programs and services authorized by this subdivision, the authority is authorized to consult standards, guidelines, rating systems, and/or criteria established or adopted by other organizations, including but not limited to the United States green building council under its leadership in energy and environmental design (LEED) programs, the green building initiative's green globes rating system, and the American National Standards Institute. The source of any financing and/or loans provided by the authority for the purposes of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(b) For the purposes of this subdivision, the following words and terms shall have the following meanings unless the context indicates another meaning or intent:

(1) "Agency" means any agency, department, or office of the state of New York.

(2) "Energy-related projects, programs and services" means energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.

(3) "Energy services contract" or "contract" means a contract pursuant to which the authority provides energy-related projects, programs and services.

(4) "High performance and sustainable building programs and services" means programs and services related to the renovation and retrofitting of buildings through the incorporation of standards, guidelines, rating systems, and/or criteria relating to design and building techniques established by the authority pursuant to this section, which are addressed to such issues as energy efficiency, energy conservation, the use of renewable energy, the reduction of air and other pollution, and the conservation of materials and resources such as water.

(5) "Public entity" means an agency, public authority, public benefit corporation, public corporation, municipal corporation, school district, board of cooperative educational services, public university, fire district, district corporation, or special improvement district governed by a separate board of commissioners.

(6) "Public authority" means a public authority formed by or under the laws of the state of New York to the extent its facilities are located within the state, and the port authority of New York and New Jersey to the extent that its facilities are located within the state.

(7) "Public benefit corporation" means a public benefit corporation as defined in subdivision four of section sixty-six of the general construction law.

(8) "Public university" means the city university of New York including any senior college or community college as defined in section sixty-two hundred two of the education law, and the state university of New York including four-year colleges established pursuant to section sixty-three hundred seven of the education law and community colleges as defined in section sixty-three hundred one of the education law.

(c) Any public entity is authorized to enter into an energy services contract with the authority for energy-related projects, programs and services that are authorized by this subdivision, provided that (i) the authority issues and advertises written requests for proposals from third party providers of goods and services in accordance with the authority's procurement policies, procedures and/or guidelines, and (ii) the authority shall not contract with a third party provider of goods and services if such person is listed on a debarment list maintained and published in accordance with New York law, as being ineligible to submit a bid on or be awarded any public contract or subcontract with the state, any municipal corporation or public body.

(d) (i) Notwithstanding any other provision of law to the contrary, any energy services contract entered into by the authority with any public entity: (1) may have a term of up to thirty-five years duration, provided, however, that the duration of any such contract shall not exceed the reasonably expected useful life of any facilities or equipment constructed, installed or operated as part of such energy-related projects, programs and services subject to such contract; and (2) shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract." A school district or board of cooperative educational services may only enter into an energy services contract with the authority for such maximum term as is prescribed in the regulations promulgated by the commissioner of education or the useful life of the facilities or equipment being constructed, installed or operated, whichever is less.

(ii) Notwithstanding any other provision of law to the contrary, in order to provide an interest in real or other property necessary for the construction of facilities or the operation of equipment provided for in an energy services contract, a public entity may enter into a lease or other agreement with the authority concerning real or other property to which it holds title or which is under its administrative jurisdiction, as is necessary for such construction or operation, for the same length of time as the term of the energy services contract and on such terms and conditions as may be agreeable to the parties thereto and are not otherwise inconsistent with law, and notwithstanding that such real or other property may remain useful to such entity for the purpose for which such real or other property was originally acquired or devoted or for which such real or other property is being used.

(e) Nothing contained in this subdivision is intended to limit, impair or affect the authority's legal authority to provide energy efficiency and energy services programs that existed as of the effective date of this subdivision.

(f) The authority shall complete and submit a report, on or before January thirty-first, two thousand twelve, on those activities undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the assembly energy committee and the chair of the senate energy committee.

18. For the purpose of furnishing the state with systematic information regarding the status and the activities of the authority, the authority shall submit to the governor, the temporary president of the senate, speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, within ninety days after the end of its fiscal year, a complete and detailed annual report on each economic development power program it administers. Such annual report shall include, but not be limited to, the following information:

- a. the number of recipients of economic power program benefits, the economic region in which each recipient is located, the type and amount of assistance provided, megawatts of power awarded, length of current contract, current contract compliance status, last audit, number of jobs retained and/or added in the fiscal year, approximate energy efficiency savings and amount of power reallocated from previous years due to forfeited benefits; and
- b. cost to the authority to provide economic development power programs during the previous fiscal year.

19. To cooperate with the western New York power proceeds allocation board and provide the board with such information and assistance as the board reasonably requests, including reasonable staff services, accounting, clerical and secretarial assistance, office space, and equipment reasonably requested by the western New York power proceeds allocation board to fulfill its duties.

20. To establish an account to be known as the western New York economic development fund, which shall consist of “net earnings” as defined in article six-a of the economic development law, deposited in such amounts as determined to be feasible and advisable by the trustees. Such earnings shall be deposited no less frequently than quarterly. The first deposit into the fund shall be made ninety days after the effective date of this subdivision, and shall include all such net earnings accrued since the effective date of chapter four hundred thirty-six of the laws of two thousand ten. At least fifteen percent of such funds shall be dedicated towards eligible projects which are energy-related projects, programs and services as such term is defined in subparagraph two of paragraph (b) of subdivision seventeen of this section. In addition to funding eligible projects, as defined in article six-a of the economic development law, the authority may use western New York economic development fund monies to cover reasonable costs and expenses of the authority related to the management and administration of the western New York power proceeds allocation program created by article six-a of the economic development law.

21. The authority may, in its discretion, consult with the western New York power proceeds allocation board in the application process relating to the allocation of expansion power and replacement power.

22. The authority shall establish processes for application review and allocation of fund benefits provided for in article six-a of the economic development law.

23. The authority shall include in the annual report prepared pursuant to subdivision eighteen of this section, an accounting for the subject year that provides (a) the amount of expansion power and replacement power sold into the wholesale market by the authority, and (b) the net earnings, as such term is defined in section one hundred eighty-nine-a of the economic development law, paid into the western New York economic development fund.

24.(a) For purposes of this subdivision, the terms “authority-TMED contract”, “eligible project”, “net earnings”, “northern New York power proceeds allocation board” and “St. Lawrence county economic development power” shall have the meanings ascribed to such terms in article seven-A of the economic development law.

(b) The authority shall be authorized to cooperate with the northern New York power proceeds allocation board, and provide such board with such information and assistance, including reasonable staff services, accounting, clerical and secretarial assistance, office space, and equipment, as the board reasonably requests in order to fulfill its duties under article seven-A of the economic development law.

(c) The authority shall establish an account to be known as the northern New York economic development fund, which shall consist solely of net earnings. The authority, as determined to be feasible and advisable by the trustees, shall deposit net earnings into the fund no less than quarterly, provided,

however, that the amount of St. Lawrence county economic development power that may be used by the authority to generate net earnings shall not exceed the lesser of twenty megawatts or the amount of St. Lawrence county economic development power that has not been allocated by the authority under the authority-TMED contract for sub-allocations, and provided further that beginning five years from the effective date of this subdivision, the amount of St. Lawrence county economic development power that may be used by the authority to generate net earnings shall not exceed the lesser of ten megawatts or the amount of St. Lawrence county economic development power that has not been allocated by the authority under the authority-TMED contract for sub-allocations. At least fifteen percent of net earnings paid into the fund shall be dedicated to eligible projects which are energy-related projects, programs and services as such term is defined in subparagraph two of paragraph (b) of subdivision seventeen of this section. In addition to funding eligible projects, the authority may use northern New York economic development fund monies to cover reasonable costs and expenses of the authority related to the management and administration of the northern New York power proceeds allocation program created by article seven-A of the economic development law.

(d) The authority is hereby authorized to establish processes for application review and allocation of fund benefits, and to promulgate such rules and regulations as it deems necessary to fulfill the purposes of this subdivision and the duties assigned to it under article seven-A of the economic development law.

(e) The authority shall include in the annual report prepared pursuant to subdivision eighteen of this section, an accounting for the subject year that provides the amount of St. Lawrence county economic development power sold into the wholesale market by the authority, and the net earnings paid into the northern New York economic development fund.

25. [Eff. Jan. 1, 2017.] Notwithstanding any other provision of law, to accept gifts, grants, loans, or contributions of funds or property in any form from the federal government or any agency or instrumentally thereof or from the state or any other source (collectively, “resources”), and enter into contracts or other transactions regarding such resources, and to use such resources for any of its corporate purposes.

The authority is authorized to allocate up to seventy megawatts of unallocated power from the Niagara project sold prior to the effective date of this paragraph as replacement power, up to thirty-eight and six-tenths megawatts of preservation power from the Saint Lawrence-FDR project which is relinquished or withdrawn after the effective date of this paragraph, and for the period ending on December thirty-first, two thousand six, up to an additional twenty megawatts of power from the Saint Lawrence-FDR project which is unallocated as of the effective date of this paragraph, for sale into the wholesale market, the net earnings from which and such other funds of the authority as deemed feasible and advisable by the trustees, shall be used for energy cost savings benefits. Such energy cost savings benefits shall be made upon recommendation of the economic development power allocation board, pursuant to subdivision (h) of section one hundred eighty-three of the economic development law. For purposes of this paragraph, the term net earnings shall mean any excess of revenues earned from the sale of such power allocated to the wholesale market from the Niagara and Saint Lawrence-FDR projects over the revenues that would have been received had such firm power been allocated and sold on a firm basis by the authority prior to the effective date of this paragraph.

The governor shall establish a temporary commission on the future of New York state power programs for economic development as soon as practicable but no later than May first, two thousand six. On or before December first, two thousand six, the commission shall make recommendations to the governor and the legislature on whether to continue, modify, expand or replace the state’s economic development power programs, including but not limited to the power for jobs program and the energy cost savings benefit program, and shall recommend legislative language necessary to implement its recommendations.

The commission shall consist of eleven members, comprised of five members appointed by the governor, one of whom he or she shall designate as chairperson, two members by the speaker of the assembly, two members by the temporary president of the senate, one member by the minority leader of the assembly and one member by the minority leader of the senate.

§ 1005-a. Actions or contracts involving certain nuclear power plants

Whenever the authority undertakes or executes any action or contract involving the closure, maintenance, decommissioning or conversion of any nuclear power plant constructed by a utility corporation which has not entered commercial operation, the authority shall, in order to ensure that neither the authority nor its customers shall bear any of the costs associated therewith, provide for the full recovery from such corporation, its successors or assigns of:

(a) all direct and indirect costs and expenses incurred by the authority in connection with such actions or contracts;

(b) all direct and indirect costs incurred by the authority in connection with damages to third parties resulting from any actions of the authority in connection with such actions or contracts; provided, however, that the authority shall not be indemnified against damages for gross negligence or willful misconduct; and

(c) all damages incurred by the authority in connection with such actions or contracts other than damages resulting from its gross negligence or willful misconduct.

In no event shall the authority recover any costs or damages related to such actions or contracts from any of its customers other than such corporation its successors or assigns.

§ 1005-b. New York state canal corporation

1. The public benefit corporation known as the “New York state canal corporation” (hereinafter referred to as the “canal corporation”) created as a subsidiary corporation of the New York state thruway authority pursuant to chapter seven hundred sixty-six of the laws of nineteen hundred ninety-two is hereby continued and reconstituted as a subsidiary corporation of the authority and shall have only the power to operate, maintain, construct, reconstruct, improve, develop, finance, and promote all of the canals, canal lands, feeder canals, reservoirs, canal terminals, canal terminal lands and other property under the jurisdiction of the canal corporation pursuant to article one-A of the canal law (hereinafter referred to as the “canal system”). Reference in any provision of law, general, special or local, or in any rule, regulation or public document to the canal corporation or the canal corporation as a subsidiary of the New York state thruway authority shall be deemed to be and construed as a reference to the canal corporation continued by this section.

2. The management and administration of the canal corporation shall be an additional corporate purpose of the authority. To the extent that the trustees deem it feasible and advisable, the authority may transfer to the canal corporation any moneys, real, personal, or mixed property or any personnel in order to carry out the purposes of this section, provided that nothing in this section shall be deemed to require the authority to apply any moneys, revenues or property or to take any action in a manner that would be inconsistent with the provisions of any bond or note resolution or any other contract with the holders of the authority’s bonds, notes or other obligations.

3. The canal corporation and any of its property, functions, and activities shall have all of the privileges, immunities, tax exemptions and other exemptions of the authority and of the authority’s property, functions, and activities. The canal corporation shall be subject to the restrictions and

limitations to which the authority may be subject. The canal corporation may delegate to one or more of its members, or its officers, agents and employees, such duties and powers as it may deem proper.

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

5. The members of the canal corporation shall be the same persons holding the offices of trustees of the authority.

6. No officer or member of the canal corporation shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of his or her duties, by reason of his or her serving as a member, director, or trustee of the canal corporation.

7. The employees of the canal corporation shall not be deemed to be employees of the authority by reason of their employment by the canal corporation. All officers and employees of the canal corporation shall be subject to the provisions of the civil service law which shall apply to the canal corporation and such corporation shall be subject to the jurisdiction of the New York state department of civil service and the New York state civil service commission. The canal corporation shall participate in the New York state and local employees' retirement system. Nothing contained in a chapter of the laws of two thousand sixteen that added this section shall be construed to affect the rights and privileges of the canal corporation or any of its employees under any provisions of the civil service law or any existing or expired collective bargaining agreement in effect as of the effective date of transfer of the canal corporation from the thruway authority to the authority. Any such employee who at the time of such transfer shall have been in a negotiating unit represented by an employee organization which was certified or recognized pursuant to article fourteen of the civil service law shall continue to be represented by said employee organization. There shall be no reduction of staff, loss of position, including partial displacement, such as reduction in the hours of non-overtime, wages, or employment benefits as a result of the transfer of the canal corporation from the thruway authority to the authority for twenty-four months following such transfer.

8. The fiscal year of the canal corporation shall be the same as the fiscal year for the authority.

9. The canal corporation shall have the power to:

- (a) operate, maintain, construct, reconstruct, improve, develop, finance, and promote the canal system;
- (b) sue and be sued;
- (c) have a seal and alter the same at pleasure;
- (d) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;
- (e) appoint officers and employees and fix their compensation;

- (f) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (g) acquire, hold, and dispose of real or personal property for its corporate purposes;
- (h) engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;
- (i) procure insurance against any loss in connection with its activities, properties, and other assets, in such amount and from such insurers as it deems desirable;
- (j) invest any funds of the canal corporation, or any other monies under its custody and control not required for immediate use or disbursement, at the discretion of the canal corporation, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in any other obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight-a of the state finance law;
- (k) exercise those powers and duties of the authority delegated to it by the authority;
- (l) prepare and submit a capital program plan pursuant to section ten of the canal law;
- (m) approve and implement the New York state canal recreationway plan submitted pursuant to section one hundred thirty-eight-c of the canal law. The canal corporation's review and approval of the canal recreationway plan shall be based upon its consideration of a generic environmental impact statement prepared by the canal corporation in accordance with article eight of the environmental conservation law and the regulations thereunder. Prior to the implementation of any substantial improvement by the canal corporation on canal lands, canal terminals, or canal terminal lands, or the lease of canal lands, canal terminals, or canal terminal lands for substantial commercial improvement, the canal corporation, in addition to any review taken pursuant to section 14.09 of the parks, recreation and historic preservation law, shall conduct a reconnaissance level survey within three thousand feet of such lands to be improved of the type, location, and significance of historic buildings, sites, and districts listed on, or which may be eligible, for the state or national registers of historic places. The findings of such survey shall be used to identify significant historical resources and to determine whether the proposed improvements are compatible with such historic buildings, sites, and districts;
- (n) enter on any lands, waters, or premises for the purpose of making borings, soundings, and surveys;
- (o) accept any gifts or any grant of funds or property from the federal government or from the state or any other federal or state public body or political subdivision or any other person and to comply with the terms and conditions thereof; and
- (p) waive any fee for a work permit which it has the power to issue if in its discretion the project which is subject to a work permit would add value to canal lands without any cost to the canal corporation, the authority, or the state.

10. (a) The canal corporation shall review the budget request submitted by the canal recreationway commission pursuant to section one hundred thirty-eight-b of the canal law.

(b) The canal corporation, on or before the fifteenth day of September of each year, shall submit to the director of the budget a request for the expenditure of funds available from the New York state canal system development fund pursuant to section ninety-two-u of the state finance law or available from any other non-federal sources appropriated from the state treasury.

(c) In the event that the request submitted by the canal corporation to the director of the budget differs from the request submitted by the commission to the canal corporation, then the request submitted by the canal corporation to the director of the budget shall specify the differences and shall set forth the reasons for such differences.

11. The canal corporation shall not have the power to issue bonds, notes, or other evidences of indebtedness; provided that notwithstanding the foregoing, the canal corporation may agree to repay amounts advanced to the canal corporation by the authority and to evidence such agreement by delivery of a promissory note or notes to the authority.

12. The canal corporation may do any and all things necessary or convenient to carry out and exercise the powers given and granted by this section.

13. The authority and all other state officers, departments, boards, divisions, commissions, public authorities, and public benefit corporations may render such services to the canal corporation within their respective functions as may be requested by the canal corporation.

14. Whenever any state political subdivision, municipality, commission, agency, officer, department, board, division, or person is authorized and empowered for any of the purposes of this title to cooperate and enter into agreements with the authority, such state political subdivision, municipality, commission, agency, officer, department, board, division, or person shall have the same authorization and power for any such purposes to cooperate and enter into agreements with the canal corporation.

§ 1005-c. Additional powers of the authority to finance certain projects in connection with the New York state canal system

1. (a) The authority is hereby authorized, as an additional corporate purpose thereof, to issue its bonds, notes and other evidences of indebtedness in conformity with applicable provisions of the uniform commercial code for purposes of financing the construction, reconstruction, development and improvement of the New York state canal system.

(b) The authority shall issue any such bonds, notes, or evidences of indebtedness pursuant to paragraph (a) of this subdivision on a basis subordinate in lien and priority of payment to the authority's senior lien indebtedness as the authority shall provide by resolution.

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

3. Subject to agreements with noteholders or bondholders, the authority shall have the authority to fix and collect such fees, rentals and charges for the use of the canal system or any part thereof necessary or convenient, with an adequate margin of safety, to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders of its notes or bonds, and to establish the rights and privileges granted upon payment thereof; provided, however, that tolls may only be imposed for the passage through locks and lift bridges by vessels which are propelled in whole or in part by mechanical power.

§ 1005-d. Sharing employees, services and resources; indemnity and defense

1. For the purposes of this section, the following words and terms shall have the following meanings unless the context indicates another meaning or intent:

(a) "Department" means the department of transportation.

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

3. The authority shall defend any unit, entity, officer or employee of the department, using the forces of the department of law pursuant to subdivision eleven of this section in any action, proceeding, claim, demand or the prosecution of any appeal arising from or occasioned by the acts or omissions to act in the performance of the functions of the authority or canal corporation pursuant to a shared services agreement.

4. Defense pursuant to subdivision three of this section shall be conditioned upon the full cooperation of the department.

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

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

7.

(a) The state shall defend any unit, entity, officer or employee of the authority and canal corporation using the forces of the department of law in any action, proceeding, claim, demand or the prosecution of any appeal arising from or occasioned by the acts or omissions to act in the performance of the functions of the department pursuant to a shared services agreement.

(b) Defense pursuant to paragraph (a) of this subdivision shall be conditioned upon the full cooperation of the authority and canal corporation.

(c) The state shall indemnify and hold harmless any unit, entity, officer or employee of the authority or canal corporation in the amount of any judgment obtained against the authority or canal corporation in the amount of any settlement the authority or canal corporation enters into with the consent of the state for any and all claims, damages or liabilities arising from or occasioned by the acts or omissions to act on behalf of the department pursuant to a shared services agreement, provided, however, that the act or omission from which such judgment or settlement arose occurred while the department was acting within the scope of its functions pursuant to a shared services agreement. Any such settlement shall be executed pursuant to section twenty-a of the court of claims act.

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

(e) Any payment made pursuant to this subdivision or any monies paid for a claim against or settlement with the department, authority or canal corporation pursuant to this subdivision and pursuant to a shared services agreement shall be paid from appropriations for payment by the state pursuant to the court of claims act.

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

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

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

11. At the request of the authority or canal corporation, services and assistance and legal services for the authority or canal corporation shall be performed by forces or officers of the department and the department of law respectively, and all other state officers, departments, boards, divisions and commissions shall render services within their respective functions.

12. The authority shall prepare and submit to the governor, the temporary president of the senate, the speaker of the assembly, the attorney general, and the comptroller on or before the first day of February of each year, a report detailing each specific instance of resource sharing between the department, the authority, and the canal corporation undertaken pursuant to this section during the preceding calendar year.

For the purpose of exercising its powers and performing its duties hereunder and of securing such information as it may deem necessary hereunder, the authority shall have the power to compel the attendance of witnesses and the production of documents. The power hereby conferred upon the authority may be exercised by any one or more of the trustees if he or they are authorized so to act on behalf of the authority by resolution or by law. A subpoena issued under this section shall be regulated by the civil practice law and rules.

§ 1007. Acquisition of property

If, for any of the purposes hereunder, including temporary construction purposes and the making of additions or improvements, the authority shall find it necessary or convenient for it to acquire any real property as herein defined, whether for immediate or future use, then the authority may find and determine that such property is required for a public use, and upon such due determination, such property shall be and shall be deemed to be required for such public use until otherwise determined by the authority and with the exceptions hereinafter specifically noted such determination of fact shall not be affected by the fact that such property has theretofore been taken for, or is then devoted to, a public use; but the public use in the hands or under the control of the authority shall be deemed superior to the public use in the hands of any other person, association or corporation. If the authority is unable to agree for the acquirement of any such property, or if the owner thereof shall be incapable of disposing of the same, or if, after diligent search and inquiry, the name and residence of any such owner cannot be ascertained, or if any such property has been acquired or attempted to be acquired and title or other rights therein have been found to be invalid or defective, the authority may acquire such property by condemnation under and pursuant to the provisions of this title.

1. When any real property within this state is sought to be acquired by condemnation, the authority shall cause a survey and map to be made thereof, and shall cause such survey and map to be filed in its office. There shall be annexed to such survey and map a certificate executed by the chief engineer of the authority, or by such other officer or employee as may be designated by the trustees, stating that the property or interest therein described in such survey and map are necessary for its purposes.

2. Upon filing such survey and map the authority shall petition a special term of the supreme court held in the judicial district in which the property is located, or the county court of any county where such property is located, for the condemnation of such property or interest therein, as have not been otherwise acquired. Such petition shall be generally in the form prescribed by section four of the condemnation law, so far as consistent herewith. Such petition, together with a notice of pendency of the proceeding, shall be filed in the office of the county clerk of such county and shall be indexed and recorded as provided by law. A copy of such petition together with a notice of the presentation thereof to such special term of the supreme court or to the county court shall be served upon the owners as provided in sections five and six of the condemnation law. The authority may cause a duplicate original affidavit of the service thereof to be recorded in the books used for recording deeds in the office of the county clerk of the county wherein the property described in such notice is situated, and the recording of such affidavit shall be prima facie evidence of due service thereof.

3. At any time after the recording of the petition and notice as above provided the authority may enter upon and use and occupy all the parcels of real estate described in the proceedings for the condemnation thereof, provided that it shall first deposit with the court a sum equal to the assessed valuation of such real property, or in the event that the assessed valuation thereof cannot readily be ascertained, such sum as in its judgment shall be sufficient as compensation for the real property acquired. The sum so deposited shall be applied as provided in section twenty-four of the condemnation law. Upon the recording of the petition and notice and the making of the deposit, the owner or person in possession of such real property shall deliver possession thereof to the authority upon demand, and in case possession is not delivered when demanded, or demand is not convenient because of absence of the owner or inability to locate or determine

the owner, the authority may apply to the court without notice for an order requiring the sheriff to put it into possession of such real property. Such an order must be executed as if it were an execution for the delivery of the possession of the property.

4. The proceedings thereafter shall be in the manner prescribed by the condemnation law so far as consistent herewith.

5. The commissioners appointed to ascertain and determine the compensation which ought justly to be made to the owners of property or interests therein appraised by them as provided in section thirteen of the condemnation law shall make their report of the value thereof to the supreme court within one hundred days from the date of their qualification.

6. The persons or corporations whose property shall have been taken by condemnation and who shall have agreed upon the compensation to be paid therefor in settlement of the proceeding, or to whom an award of compensation shall have been made by the court, shall be entitled to payment of the agreed or awarded compensation within three calendar months after the date of the agreement upon the amount of the compensation or of the entry of the order confirming the report of the commissioners of appraisal, together with interest upon the amount of such compensation from the time of the entry and appropriation thereof by the authority, to the date of payment of such compensation; but such interest shall cease upon the service by the authority, upon the person or corporation entitled thereto, of a fifteen days' notice that the authority is ready and willing to pay the amount of such compensation upon the presentation of proper proofs and vouchers. Such notice shall be served personally or by registered mail and publication thereof at least once a week for three successive weeks in a daily newspaper, having a general circulation in the county where such property or any part thereof is located.

7. The authority may, at its option, acquire such real property within the state of New York, under the general condemnation law or, in the event it is a licensee of the federal power commission it may acquire such real property as is necessary for its purposes through the exercise of the right of eminent domain as provided in section twenty-one of the federal power act, as amended.

8. The authority and its duly authorized agents and employees may enter upon any real property for the purpose of making the surveys or maps mentioned in this section, or for such other surveys or examinations of real property as may be necessary or convenient for the purposes of this title.

9. The term "real property" as used in this title is defined to include lands, structures, franchises and interests in land, including lands under water and riparian rights, and any and all other things and rights usually included within the said term, and includes also any and all interests in such property less than full title, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages for such real estate.

10. The authority may determine what real property is reasonably necessary for the construction or operation of any project authorized by this title including transmission facilities. If funds are made available by the authority to the state for payment of the cost and expense of the acquisition thereof, the commissioner of transportation, when requested by the authority, shall acquire such real property in the name of the state by appropriation and, where necessary, remove the owner or occupant thereof and obtain possession, according to the procedure provided by section thirty of the highway law, insofar as the same may be applicable. The authority shall have the right to possess and use for its corporate purposes, so long as its corporate existence shall continue, all such real property and rights in real property so acquired.

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

The authority may determine whether any property appropriated pursuant to this section, while under its jurisdiction, should be sold or exchanged in whole or in part, on terms beneficial to the state and the authority, and in all cases where such a determination is made, the authority may sell or exchange such property. Where the authority finds it practicable and reasonable, the former owner, from whom the property was appropriated, his heirs, successors in interest and assigns, shall be given the first opportunity to purchase such property at its fair market value. In order to carry any such sale or exchange into effect the authority is hereby authorized to execute and deliver in the name of the people of the state a quit claim of such property. Money proceeds of any such sale shall be retained by the authority. Title to property received upon such exchange shall be acquired in the name of the state, and the authority shall have the same rights of occupation and use thereof and shall be vested with the same rights with respect thereto as is provided in this section and in section one thousand eight as to property of the state. Where property appropriated pursuant to this section is required by the Saint Lawrence Seaway Development Corporation, created pursuant to public law three hundred fifty-eight of the 83rd Congress, or any successor corporation, the authority may convey such property to such corporation, and, if the license issued to the authority by the federal power commission shall so require, such conveyance may be made without consideration.

The attorney general is hereby authorized and empowered to certify to such Saint Lawrence Seaway Development Corporation, the right, title or interest vested in the name of the people of the state of New York in and to property appropriated pursuant to this section and proposed to be conveyed to such Saint Lawrence Seaway Development Corporation as hereinbefore provided.

§ 1008. Consent of state

The state of New York hereby consents to the occupation and use by the authority of any and all property of the state of whatever kind or character on the Niagara river or within the international rapids section of the Saint Lawrence river, and hereby vests the authority with and delegates to it the right to exercise any and every right and power of the state in connection therewith, whether proprietary or sovereign in character, which the state itself might exercise, provided that such consent and delegation of power shall not permit the impairment or limit or prevent the future improvement of the navigability of the Niagara river or the international rapids section of the Saint Lawrence river, consistent with the maintenance of such projects, but on the contrary the projects shall be such as will improve and benefit commerce and navigation therein and provided further that the authority shall have no power to limit, waive or surrender any right or interest of the state of New York in such rivers or the use thereof.

§ 1009. Contracts negotiated by authority

Contracts negotiated by the authority as provided in sub-paragraph five or six of section one thousand five of this title shall be entered into and executed as follows:

1. After agreement upon the terms of any such contracts shall have been reached by the authority and its co-party or co-parties, the authority shall promptly transmit a copy of such proposed contract to the governor, the speaker of the assembly, the minority leader of the assembly, the chairman of the assembly committee on ways and means, the temporary president of the senate and the minority leader of the senate and the chairman of the senate finance committee and shall hold a public hearing or hearings upon the terms

thereof. At least thirty days' notice of such hearing shall be given by publication once in each week during such period in each of six newspapers within the state to be selected by the authority. Copies of proposed contracts shall be available for public inspection during such period of thirty days at the office or offices of the authority and at such other places throughout the state as it may designate.

2. Following such public hearing, the authority shall reconsider the terms of the proposed contract or contracts and shall negotiate such changes and modifications in the contract or contracts as it then deems necessary or advisable.
3. When such contract or contracts are finally agreed upon in terms satisfactory to the authority and its co-party or co-parties, and which the authority believes to be in the public interest, the authority shall thereupon report the proposed contract or contracts, together with its recommendations and the record of the public hearings thereon, to the speaker of the assembly, the chairman of the assembly committee on ways and means, the temporary president of the senate, the chairman of the senate finance committee and the governor. The governor shall, within sixty days thereafter, indicate his approval or disapproval thereof and give his reasons therefor.
4. If the governor shall approve such contract, then the same shall be executed by the chairman and secretary of the authority and it shall thereupon come into full force and effect and be binding upon the authority and all other parties thereto in accordance with its terms.

§ 1009-a. Notes of the authority

The authority shall have the power and is hereby authorized from time to time to issue its negotiable notes in conformity with applicable provisions of the uniform commercial code for any corporate purpose and renew from time to time any notes by the issuance of new notes, whether the notes to be renewed have or have not matured. The authority may issue notes partly to renew notes or to discharge other obligations then outstanding and partly for any other purpose. The notes may be authorized, sold, executed and delivered in the same manner as bonds. Any resolution or resolutions authorizing notes of the authority or any issue thereof may contain any provisions which the authority is authorized to include in any resolution or resolutions authorizing bonds of the authority or any issue thereof, and the authority may include in any notes any terms, covenants or conditions which it is authorized to include in any bonds. All notes shall be general obligations of the authority payable out of any of its moneys or revenues, subject only to any contractual rights of the holders of any of its notes or other obligations then outstanding.

§ 1010. Bonds of the authority

1. The authority shall have power and is hereby authorized from time to time to issue its negotiable bonds in conformity with applicable provisions of the uniform commercial code for the purpose of financing any project authorized by this title, including the acquisition of any real or personal property or facilities deemed necessary by the authority.
2. In anticipation of the sale of such bonds the authority may issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original notes. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged, or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. Such notes shall not be issued in an amount in excess of the amount of bonds which the authority is authorized to issue, less the amount of any bonds or other notes theretofore issued and outstanding. The notes shall be issued in the same manner as the bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution of the authority may contain.

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

4. The authority shall have power from time to time, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinbefore described. Refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold with the proceeds applied to the purchase or payment of the bonds to be refunded.

5. The bonds may be issued payable in annual installments or may be issued as term bonds or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the trustees of the authority and shall bear such date or dates, mature at such time or times, not exceeding fifty years from their respective dates, bear interest at such rate or rates, payable annually or semiannually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. In the event that term bonds are issued, the resolution authorizing the same may make such provisions for the establishment and management of adequate sinking funds for the payment thereof, as the authority may deem necessary. The bonds or notes may be sold at public or private sale for such price or prices as the authority shall determine. Pending preparation of the definite bonds, the authority may issue interim receipts which shall be exchanged for such bonds.

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

(a) pledging all or any part of the revenues of the project or any revenue producing contract or contracts made by the authority with any individual, partnership, corporation or association to secure the payment of the bonds or of any particular issue of bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

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

(d) limitations on the right of the authority to restrict and regulate the use of any project;

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

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

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

(h) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(i) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default.

7. Notwithstanding any other provisions of this title, any such resolution or resolutions shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that any contracts entered into by the authority for the sale, transmission or distribution of power shall contain rates, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on any obligations issued pursuant to such resolution as the same severally become due and payable, and to maintain any reserves required by the terms of such resolution or resolutions.

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

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

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

11. Any bonds or notes issued by the authority are hereby made securities in which all public officers and bodies of this state and all 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, and all other persons whatsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds and notes shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries except when any such individual fiduciary shall be acting in such capacity with one or more corporate co-fiduciaries. The bonds and notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1010-a. Deposit and investment of moneys of the authority

All moneys of the authority from whatever source derived shall be paid to the comptroller as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out on check of the

comptroller on requisition of the chairman of the authority or of such other person as the authority may authorize to make such requisition. All deposits of such moneys shall, if required by the comptroller or the authority, be secured by obligations of the United States or of the state of New York of a market value 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 comptroller and his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing.

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

Moneys of the authority not required for immediate use may, in the discretion of the authority, be invested by the comptroller in obligations of the United States government or of the state of New York.

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

§ 1011. Agreement of the state

1. The state of New York does hereby pledge to and agree with the holders of any obligations issued under this title, and with those parties who may enter into contracts with the authority pursuant to the provisions in sub-paragraph five or six of section one thousand five above, that the state will not limit or alter the rights hereby vested in the authority until such obligations together with the interest thereon are fully met and discharged and/or such contracts are fully performed on the part of the authority, provided that nothing herein contained shall preclude such limitation or alteration if and when adequate provision shall be made by law for the protection of the holders of such obligations of the authority or those entering into such contracts with the authority. The authority as agent for the state is authorized to include this pledge and undertaking for the state in such obligations or contracts.

2. Nothing in this title shall be construed as diminishing or enlarging any valid existing rights under any license heretofore issued pursuant to the provisions of the federal power act.

§ 1012. Exemption from taxation

It is hereby found and declared that the projects authorized by this title are for the aid and improvement of commerce and navigation and that such aid and improvement of commerce and navigation and the development, sale and distribution of power is primarily for the benefit of the people of the state of New York, for the improvement of their health and welfare and material prosperity, and is a public purpose, and the authority shall be regarded as performing a governmental function in undertaking such projects and in carrying out the provisions of this title, and shall be required to pay no taxes or assessments upon any of the property acquired by it for such projects or upon its activities in the operation and maintenance thereof, provided that nothing herein shall prevent the authority from entering into agreements to make payments in lieu of taxes with respect to property acquired for any project where such payments are based solely on the value of real property without regard to any improvement thereof by the authority and where

no bonds to pay any costs of such project were issued prior to January first, nineteen hundred seventy-two.

The securities and other obligations issued by the authority, their transfer and the income therefrom shall, at all times, be free from taxation within this state. It is furthermore declared that the object and purpose of this title is that such projects shall be in all respects self-supporting.

§ 1012-a. Emergency contributions to county of Niagara and city of Niagara Falls

1. On June seventh, nineteen hundred fifty-six a collapse of the rock wall of the Niagara river resulted in the substantial destruction of a hydro-electric power generating plant which annually produced more than three billion kilowatt hours of low-cost electric energy, most of which was used by industrial plants employing great numbers of workers in the city of Niagara Falls and vicinity. These industries would be forced to curtail their operations drastically or abandon them and thousands of jobs would be lost if the industries were not able to obtain necessary power at high cost on a temporary basis from the hydro-electric power commission of Ontario. This commission is using not only Ontario's share of the water of the Niagara river under the treaty signed on February twenty-seventh, nineteen hundred fifty, between the United States and Canada, but also a large part of New York's share of such water. To provide for the retention and expansion of existing industry and the attraction of new industry vital to the economy of the area and to the defense of the United States, it is essential that power authority of the state of New York complete a power project to utilize all of the waters of the Niagara available in the United States. The destruction caused by the rock slide resulted in reducing to the extent of some ten million dollars the total valuation of real property subject to taxation in the city of Niagara Falls. This will result in a temporary tax loss to the county of Niagara and the city of Niagara Falls of approximately seven hundred thousand dollars per year with resulting hardship to taxpayers. An increase in the tax base sufficient to offset such loss cannot be brought about until industrial activities in the area are expanded and increased through the availability of low-cost power from such New York hydro-electric power project. An emergency justifying financial relief to the county of Niagara and city of Niagara Falls exists and will continue until such a project is completed. It is recognized that public authorities constitute valuable governmental entities in the state, performing important functions on a businesslike basis through the use of private funds borrowed from prudent investors without state or municipal credit, and that the integrity and independence of these authorities must be maintained and their present exemption from taxation protected.

2. Power authority of the state of New York is hereby authorized to include in financing the cost of its Niagara river project a total sum of (1) three million dollars in addition to that otherwise required and to contribute such additional total sum as emergency relief to the county of Niagara and city of Niagara Falls on the basis of decreasing annual allotments over a five-year construction and expansion period; such annual allotments shall be allocated for school and other purposes in the same proportion as other moneys collected as real property taxes in such city; and (2) the power authority of the state of New York is hereby authorized to expend the sum of one and one-half million dollars for local improvements in the city of Niagara Falls incidental to or reasonably related to the Niagara power project of the authority.

§ 1013. Repayment of state appropriations

All appropriations made by the state to the authority shall be treated as advances by the state to the authority, and shall be repaid to it without interest either out of the proceeds of securities, or other obligations issued by the authority for the construction of any project pursuant to the provisions of this title, or by the delivery of non-interest bearing obligations of the authority to the state for all or any part of such advances, or out of excess revenues from such project subject however to any pledges of such

revenues made pursuant to any resolution or resolutions of the authority authorizing the issuance of obligations of the authority issued prior to nineteen hundred and sixty.

§ 1014. Public service law not applicable to authority; inconsistent provisions in other acts superseded

The rates, services and practices relating to the generation, transmission, distribution and sale by the authority, of power to be generated from the projects authorized by this title shall not be subject to the provisions of the public service law nor to regulation by, nor the jurisdiction of the department of public service. Except to the extent article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, and article ten of the public service law applies to the siting of a major electric generating facility as defined therein, and except to the extent section eighteen-a of the public service law provides for assessment of the authority for certain costs relating thereto, the provisions of the public service law and of the environmental conservation law and every other law relating to the department of public service or the public service commission or to the environmental conservation department or to the functions, powers or duties assigned to the division of water power and control by chapter six hundred nineteen of the laws of nineteen hundred twenty-six, shall so far as is necessary to make this title effective in accordance with its terms and purposes be deemed to be superseded, and wherever any provision of law shall be found in conflict with the provisions of this title or inconsistent with the purposes thereof, it shall be deemed to be superseded, modified or repealed as the case may require.

§ 1015. Title not affected if in part unconstitutional or ineffective

If any term or provision of this title shall be declared unconstitutional or ineffective in whole or in part by a court of competent jurisdiction, then to the extent that it is not unconstitutional or ineffective such term or provision shall be enforced and effectuated, nor shall such determination be deemed to invalidate the remaining terms or provisions hereof.

§ 1016. Renumbered Public Authorities Law § 1015

§ 1017. Actions against authority

1. In any action founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee, agent or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. Except in an action for wrongful death, an action against the authority for damages for injuries to real or personal property, or for the destruction thereof, or for personal injuries, alleged to have been sustained, shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued.

2. 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.