**Public Authorities Law**
**Articles 1 & 9**

**Article 1 – SHORT TITLE**

TITLE 1 - SHORT TITLE; DEFINITIONS

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

§ 2. Definitions. As used in this chapter:

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

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

3. "interstate or international authority" shall mean an international or interstate public authority created pursuant to agreement or compact with another state or with a foreign power, including any and all affiliates or subsidiaries.

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

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

§ 3. Pay equity. 1. In order to attract unusual merit and ability to the service of public authorities in the state of New York, to stimulate higher efficiency among the personnel, to provide skilled leadership in administration, to reward merit and to insure the highest return in services for the necessary costs of administration, it is hereby declared that public authorities shall, consistent with the federal Equal Pay Act of 1963 (29 U.S.C. § 206), the federal Civil Rights Act (42 U.S.C. § 2000e-2), article fifteen of the executive law, and section forty-c of the civil rights law, ensure a fair, non-biased compensation structure for all employees in which status within one or more protected class or classes is not considered either directly or indirectly in determining the proper compensation for a title or in determining the pay for any individual or group of employees, ensure that no employee with status within one or more protected class or

classes shall be paid a wage at a rate less than the rate at which an employee without status within the same protected class or classes in the same establishment is paid for similar work or substantially similar work and provide regular increases in pay in proper proportion to increase of ability, increase of output and increase of quality of work demonstrated in service.

2. For the purpose of this section:

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

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

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

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

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

(1) a bona fide seniority or merit system;

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

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

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

(5) a collective bargaining agreement.

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

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

TITLE 2 – AUTHORITIES BUDGET OFFICE

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

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

1. permanent disability;

2. inefficiency;

3. neglect of duty;

4. malfeasance;

5. a felony or conduct involving moral turpitude; or

6. breach of fiduciary duty.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 6-a. Power to suspend local authority board members and executive staff. 1. The authorities budget office shall have the authority, subject to subdivision two of this section, to suspend one or more members of a local authority board of directors, or the chief executive officer or equivalent position of a local authority for a period not to exceed ninety days when such individual or individuals knowingly fails or neglects to submit any report required by section twenty-eight hundred of this chapter within thirty-six months of its due date. The authorities budget office is authorized to terminate such a suspension if the board member or chief executive officer demonstrates that he or she has remedied their non-compliance. For the purposes of this section, the "suspension" of an individual shall mean the temporary removal of the rights,

responsibilities, powers and duties of a person who is an appointed board member of a local authority or the individual who serves as chief executive officer through appointment or contract. Should the authorities budget office suspend the full board of directors or a majority of current board members the term "suspension" shall mean the board of directors is prohibited from taking actions, votes, or adopting resolutions, that bind the board to future agreements, contracts, financial commitments, indebtedness, or other actions, other than actions necessary to resolve the noncompliance or satisfy existing legal or administrative obligations.

2. (a) Pursuant to policies and procedures developed by the authorities budget office and made available on its website, when the authorities budget office has reason to believe that one or more board members of a local authority has knowingly failed or neglected to submit any report required by section twenty-eight hundred of this chapter within thirty-six months of its due date, the authorities budget office shall provide at least thirty days' notice of its intent to initiate suspension proceedings to the chairperson of the local authority, to the individual or individuals responsible for appointing such board members, and to each such board member. If the authorities budget office has reason to believe that the chief executive officer of a local authority has knowingly failed or neglected to submit any report required by section twenty-eight hundred of this chapter within thirty-six months of its due date, the authorities budget office shall provide at least thirty days' notice of its intent to initiate suspension proceedings to the chairperson of the local authority and to the chief executive officer. Such notice shall include, but shall not be limited to (i) the date and a brief description of the facts and nature of each non-compliance for which such suspension is proposed; (ii) the number of days that the authorities budget office proposes to suspend such board member or chief executive officer; (iii) the option to submit a formal response to the authorities budget office which demonstrates why such board member or chief executive officer should not be suspended; and (iv) if applicable, a period of time in which such local authority or board member or chief executive officer may remedy the non-compliance.

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

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

of the municipality for whose benefit the local authority was created, any action to reinstate a suspended board member shall be through an official act of the chief executive official. Such act shall be recorded in writing and shall describe the facts and circumstances by which the chief executive official reached this determination.

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

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

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

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

(a) "Economic development benefits" shall mean:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) relating to loans, the source of funds for the loan, the name and

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

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

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

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

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

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

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

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

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

3. The office shall submit a quarterly report to the governor,

temporary president of the senate, and speaker of the assembly outlining key usage statistics of the database created pursuant to subdivision two of this section including, but not limited to, the total number of unique users that quarter.

**Article 9 – GENERAL PROVISIONS**
TITLE 1 - REPORTS BY PUBLIC AUTHORITIES

§ 2800. Annual reports by authorities. 1. State authorities. (a) For the purpose of furnishing the state with systematic information regarding the status and the activities of public authorities, every state authority continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, the chairman and ranking minority member of the senate finance committee, the chairman and ranking minority member of the assembly ways and means committee, the state comptroller, and the authorities budget office, within ninety days after the end of its fiscal year, a complete and detailed report or reports setting forth: (1) its operations and accomplishments; (2) its financial reports, including (i) audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law, (ii) grant and subsidy programs, (iii) operating and financial risks, (iv) current ratings, if any, of its bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings, and (v) long-term liabilities, including leases and employee benefit plans; (3) its mission statement and measurements including its most recent measurement report; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year as part of a schedule of debt issuance that includes the date of issuance, term, amount, interest rate and means of repayment. Additionally, the debt schedule shall also include all refinancings, calls, refundings, defeasements and interest rate exchange or other such agreements, and for any debt issued during the reporting year, the schedule shall also include a detailed list of costs of issuance for such debt; (5) a compensation schedule, in addition to the report described in section twenty-eight hundred six of this title, that shall include, by position, title and name of the person holding such position or title, the salary, compensation, allowance and/or benefits provided to any officer, director or employee in a decision making or managerial position of such authority whose salary is in excess of one hundred thousand dollars; (5-a) biographical information, not including confidential personal information, for all directors and officers and employees for whom salary reporting is required under subparagraph five of this paragraph; (6) the projects undertaken by such authority during the past year; (7) a listing and description, in addition to the report required by paragraph a of subdivision three of section twenty-eight hundred ninety-six of this article of all real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority acquires or disposes of during such period. The report shall contain the price received or paid by the authority and the name of the purchaser or seller for all such property sold or bought by the authority during such period; (8) such authority's code of ethics; (9) an assessment of the effectiveness of its internal control structure and procedures; (10) a copy of the legislation that forms the statutory basis of the authority; (11) a description of the authority and its board structure, including (i) names of committees and committee members, (ii) lists of board meetings and attendance, (iii) descriptions of major authority units, subsidiaries, and (iv) number of employees; (12) its charter, if any, and by-laws; (13) a listing of material changes in operations and programs during the reporting year; (14) at a minimum a four-year financial plan, including (i) a current and projected capital budget, and (ii) an operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance; (15) its board performance evaluations; provided, however, that such evaluations shall not be subject to disclosure under article six of the public officers law; (16) a description of the total amounts of assets, services

or both assets and services bought or sold without competitive bidding, including (i) the nature of those assets and services, (ii) the names of the counterparties, and (iii) where the contract price for assets purchased exceeds fair market value, or where the contract price for assets sold is less than fair market value, a detailed explanation of the justification for making the purchase or sale without competitive bidding, and a certification by the chief executive officer and chief financial officer of the public authority that they have reviewed the terms of such purchase or sale and determined that it complies with applicable law and procurement guidelines; and (17) a description of any material pending litigation in which the authority is involved as a party during the reporting year, except that no hospital need disclose information about pending malpractice claims beyond the existence of such claims.

(b) Each state authority shall make accessible to the public, via its official or shared internet web site, documentation pertaining to its mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

(c) The authorities budget office shall make accessible to the public, via its official or shared internet web site, documentation pertaining to each authority's mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

2. Local authorities. (a) Every local authority, continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or local governments and the authorities budget office, within ninety days after the end of its fiscal year, a complete and detailed report or reports setting forth: (1) its operations and accomplishments; (2) its financial reports, including (i) audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law, (ii) grants and subsidy programs, (iii) operating and financial risks, (iv) current ratings if any, of its bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings, and (v) long-term liabilities, including leases and employee benefit plans; (3) its mission statement and measurements including its most recent measurement report; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year as part of a schedule of debt issuance that includes the date of issuance, term, amount, interest rate and means of repayment. Additionally, the debt schedule shall also include all refinancings, calls, refundings, defeasements and interest rate exchange or other such agreements, and for any debt issued during the reporting year, the schedule shall also include a detailed list of costs of issuance for such debt; (5) a compensation schedule in addition to the report described in section twenty-eight hundred six of this title that shall include, by position, title and name of the person holding such position or title, the salary, compensation, allowance and/or benefits provided to any officer, director or employee in a decision making or managerial position of such authority whose salary is in excess of one hundred thousand dollars; (5-a) biographical information, not including confidential personal information, for all directors and officers and employees for whom salary reporting is required

under subparagraph five of this paragraph; (6) the projects undertaken by such authority during the past year; (7) a listing and description, in addition to the report required by paragraph a of subdivision three of section twenty-eight hundred ninety-six of this article of all real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority acquires or disposes of during such period. The report shall contain the price received or paid by the authority and the name of the purchaser or seller for all such property sold or bought by the authority during such period; (8) such authority's code of ethics; (9) an assessment of the effectiveness of its internal control structure and procedures; (10) a copy of the legislation that forms the statutory basis of the authority; (11) a description of the authority and its board structure, including (i) names of committees and committee members, (ii) lists of board meetings and attendance, (iii) descriptions of major authority units, subsidiaries, (iv) number of employees, and (v) organizational chart; (12) its charter, if any, and by-laws; (13) a listing of material changes in operations and programs during the reporting year; (14) at a minimum a four-year financial plan, including (i) a current and projected capital budget, and (ii) an operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance; (15) its board performance evaluations provided, however, that such evaluations shall not be subject to disclosure under article six of the public officers law; (16) a description of the total amounts of assets, services or both assets and services bought or sold without competitive bidding, including (i) the nature of those assets and services, (ii) the names of the counterparties, and (iii) where the contract price for assets purchased exceeds fair market value, or where the contract price for assets sold is less than fair market value, a detailed explanation of the justification for making the purchase or sale without competitive bidding, and a certification by the chief executive officer and chief financial officer of the public authority that they have reviewed the terms of such purchase or sale and determined that it complies with applicable law and procurement guidelines; and (17) a description of any material pending litigation in which the authority is involved as a party during the reporting year, except that no provider of medical services need disclose information about pending malpractice claims beyond the existence of such claims.

(b) Each local authority shall make accessible to the public, via its official or shared internet web site, documentation pertaining to its mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

3. Every financial report submitted under this section shall be approved by the board and shall be certified in writing by the chief executive officer and the chief financial officer of such authority that based on the officer's knowledge (a) the information provided therein is accurate, correct and does not contain any untrue statement of material fact; (b) does not omit any material fact which, if omitted, would cause the financial statements to be misleading in light of the circumstances under which such statements are made; and (c) fairly presents in all material respects the financial condition and results of operations of the authority as of, and for, the periods presented in the financial statements.

4. The authorities budget office may, upon application of any authority, waive any requirements of this section upon a showing that the authority meets

the criteria for such a waiver established by regulations of the authorities budget office. Such regulations shall provide for consideration of: (a) the number of employees of the authority; (b) the annual budget of the authority; (c) the ability of the authority to prepare the required reports using existing staff; and (d) such other factors as the authorities budget office deems to reflect the relevance of the required disclosures to evaluation of an authority's effective operation, and the burden such disclosures place on an authority. Each waiver granted pursuant to this subdivision shall be disclosed in the reports of such office issued pursuant to section seven of this chapter.

§ 2801. Budget reports by authorities. 1. State authorities. Every state authority or commission heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, the chair and ranking minority member of the senate finance committee, the chair and ranking minority member of the assembly ways and means committee and the authorities budget office, for their information, annually not more than one hundred twenty days and not less than ninety days before the commencement of its fiscal year, in the form submitted to its members or trustees, budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year.

2. Local authorities. For the local authority fiscal year ending on or after December thirty-first, two thousand seven and annually thereafter, every local authority heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or governments and the authorities budget office for their information, annually not more than ninety days and not less than sixty days before the commencement of its fiscal year, in the form submitted to its members or trustees, budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year and the current fiscal year, and the actual receipts and expenditures for the last completed fiscal year.

3. If any state or local authority has provided the information required by this section as part of the annual report required by section twenty-eight hundred of this title, such authority may comply with the provisions of this section by reference to such information with any necessary updates.

§ 2802. Independent audits and audit reports of authorities. 1. State authorities. Every state authority or commission heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, chairman and ranking minority member of the senate finance committee, chairman and ranking minority member of the assembly ways and means committee, each chair and ranking member of the senate and assembly committees on corporations, authorities and commissions, the state comptroller, and the authorities budget office, together with the report described in section twenty-eight hundred of this title, a copy of the annual independent audit report, performed by a certified public accounting firm in accordance with generally accepted auditing standards as defined in subdivision eleven of section two of the state finance law, and management letter and any other external examination of the books and accounts of such authority other than copies of the reports of any examinations made by the state comptroller.

2. Local authorities. For the local authority fiscal year ending on or after December thirty-first, two thousand seven and annually thereafter, every local authority heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or local governments and the authorities budget office, together with the report described in section twenty-eight hundred of this title, a copy of the annual independent audit report, performed by a certified public accounting firm in accordance with generally accepted auditing standards as defined in subdivision eleven of section two of the state finance law, and management letter and any other external examination of the books and accounts of such authority other than copies of the reports of any examinations made by the state comptroller.

3. Each certified independent public accounting firm that performs for any state or local authority any audit required by this chapter shall timely report to the audit committee of such authority: (a) all critical accounting policies and practices to be used; (b) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of such authority, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the certified independent public accounting firm; and (c) other material written communications between the certified independent public accounting firm and the management of such authority, such as the management letter along with management's response or plan of corrective action, material corrections identified or schedule of unadjusted differences, where applicable.

4. Notwithstanding any other provision of law to the contrary, the certified independent public accounting firm providing such authority's annual independent audit will be prohibited in providing audit services to the respective authority if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the five previous fiscal years of such authority.

5. The certified independent public accounting firm performing such authority's audit shall be prohibited from performing any non-audit services to such authority contemporaneously with the audit, unless receiving previous written approval by the audit committee including: (a) bookkeeping or other services related to the accounting records or financial statements of such authority; (b) financial information systems design and implementation; (c) appraisal or valuation services, fairness opinions, or contribution-in-kind reports; (d) actuarial services; (e) internal audit outsourcing services; (f) management functions or human services; (g) broker or dealer, investment advisor, or investment banking services; and (h) legal services and expert services unrelated to the audit.

6. It shall be prohibited for any certified independent public accounting firm to perform for such authority any audit service if the chief executive officer, comptroller, chief financial officer, chief accounting officer, or any other person serving in an equivalent position for such authority, was employed by that certified independent public accounting firm and participated in any capacity in the audit of such authority during the one year period preceding the date of the initiation of the audit.

7. Notwithstanding any provision of law to the contrary, a public authority may exempt information from disclosure or report, if the counsel of such authority deems that such information is covered by subdivision two of section eighty-seven of the public officers law.

§ 2803. Examination of the books and accounts of public authorities by the state comptroller. 1. Notwithstanding any other provision of this chapter, the state comptroller shall, from time to time but not less than once in every five years, examine the books and accounts of every authority or commission heretofore or hereafter continued or created by this chapter, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its financial standing. In lieu of such an examination, the state comptroller is hereby authorized to accept from every such authority or commission an external examination of its books and accounts made at the request of such authority or commission.

2. (a) The state comptroller may, pursuant to subdivisions two and three of section eight-c of the state finance law, in his or her sole discretion, apply to state authorities the electronic data analytical enterprise fraud prevention and detection system as provided for in such section eight-c of the state finance law. Public authorities shall fully support and cooperate with the state comptroller by providing the state comptroller with access to data of the authority requested by the state comptroller, in accordance with state and federal law, to allow such data to be integrated into such analytic efforts as the state comptroller may deem necessary.

(b) For purposes of this subdivision, the term "state authority" shall have the same meaning as in subdivision one of section two of this chapter, provided that for purposes of this subdivision, the term "public benefit corporation" as used in such subdivision one of section two of this chapter shall have the same meaning as in subdivision four of section sixty-six of the general construction law.

§ 2804. Financial disclosure by public authorities or commissions prior to toll or fare increase. (1) Notwithstanding any inconsistent provision of this chapter or of any other general, special or local law, every authority or commission heretofore or hereafter continued or created by this chapter, except those excluded from the operation of this section by subdivision four, having jurisdiction over highway, bridge or tunnel facilities shall submit to the governor, comptroller, chairman of the senate finance committee, chairman of the assembly ways and means committee and ranking minority member of each of such committees, not less than one hundred twenty days prior to the proposed date of any future increase in fees, tolls or other charges for the use of any such highway, bridge or tunnel facilities, or the imposition of tolls or fees at such a location which is toll or fee free, a detailed report setting forth: (a) the need for such increase or imposition; (b) its receipts and disbursements, or revenues and expenses, during the prior three fiscal years, or so much thereof as it may have been in existence, in accordance with the categories or classifications established by such authority or commission for its own operating and capital outlay purposes; (c) its assets and liabilities at the end of its last fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds; (d) a schedule of bonds and notes outstanding at the end of its fiscal year and their redemption dates, together with a statement of the amounts redeemed and incurred during such fiscal year; (e) information on future authority or commission operations,

debt service and capital construction, together with estimated receipts and expenditures for the next five fiscal years without reference to such proposed increase or imposition; (f) projections and estimates as to the effect which the proposed increase or imposition will have on the future use of the facilities, and an estimate of the revenues which will accrue to the authority or commission as the result of the proposed increase or imposition.

(2) The comptroller shall review any proposed increase or imposition in fees, tolls or other charges, and the report required by subdivision one of this section and within sixty days make public a report of his findings, conclusions and recommendations. A copy of the comptroller's report shall be sent to the authority or commission, the governor, chairman of the senate finance committee, chairman of the assembly ways and means committee and ranking minority member of each of such committees.

(3) Every authority or commission shall hold a public hearing or hearings after receipt of the report of the comptroller required by subdivision two of this section not less than fifteen days prior to the effective date of such increase or imposition. Where the increase sought is or constitutes a portion of a general statewide increase, three hearings across the state shall be held. Where the increase or imposition is applicable only to a specific facility or segment, one hearing in the affected area shall be held. Notice of each hearing shall be given to the governor, comptroller, and each member of the legislature at least ten days prior to each such hearing, and shall be published at least once in two newspapers of daily circulation in the area where each hearing is to be held at least ten days prior to each such hearing. All newspapers shall be selected by the authority or commission. Copies of the proposed increase or imposition, the reports required by subdivisions one and two of this section shall be available for public inspection during a period of fifteen days prior to each hearing at the office or offices of the authority or commission and at a public facility in each area where a hearing is to be held. Following such public hearing or hearings, the authority or commission shall reconsider the proposed increase or imposition and may rescind, change or modify the proposal as it then deems necessary or advisable.

(4) This section shall not be applicable to any authority or commission whose existence and jurisdiction is fixed by compact, treaty, action or agreement with other states or nations.

§ 2805. Reports and publications by authorities. Every authority or commission heretofore or hereafter continued or created shall, in accordance with the provisions of section one hundred sixty-four-a of the executive law and the regulations promulgated pursuant thereto, provide for cost savings in the printing and distribution of its reports and other authority publications.

§ 2806. Personnel reports by state and local authorities and public benefit corporations. 1. Every state and local authority and public benefit corporation shall submit to the comptroller, the director of the budget, the chairpersons of the legislative fiscal committees and the authorities budget office, for their information, annually, on or before the fifteenth day of January of each calendar year, personnel information setting forth personal service schedules by subsidiary, division and unit which indicate position, grade, salary and title for each employee and in summary form.

2. If any state or local authority has provided the information required by this section in the annual report required under section twenty-eight hundred of this title, such authority may comply with the provisions of this section by references to such information with any necessary updates.

§ 2807. Reporting for searchable state subsidy and aggregate economic development benefits database. Notwithstanding any other provision of law to the contrary, every state authority shall submit to the urban development corporation, and update quarterly, in the form and manner prescribed by the urban development corporation, any and all data and information as necessary for developing, updating, and maintaining the database established in section fifty-eight of section one of chapter one hundred seventy-four of the laws of nineteen hundred sixty-eight, constituting the New York state urban development corporation act, regarding economic development benefits, as such term is defined in such section, awarded by such state authority. A state authority may request and shall receive any data from an individual, business, limited liability corporation or any other entity that has applied for and received approval for, or is the beneficiary of, any such economic development benefits, as is necessary and required to comply with this section.

TITLE 2 - BOARDS OF PUBLIC AUTHORITIES

§ 2824. Role and responsibilities of board members. 1. Board members of state and local authorities shall (a) execute direct oversight of the authority's chief executive and other management in the effective and ethical management of the authority; (b) understand, review and monitor the implementation of fundamental financial and management controls and operational decisions of the authority; (c) establish policies regarding the payment of salary, compensation and reimbursements to, and establish rules for the time and attendance of, the chief executive and management; (d) adopt 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; (e) establish 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; (f) adopt a defense and indemnification policy and disclose such plan to any and all prospective board members; (g) perform each of their duties as board members, including but not limited to those imposed by this section, in good faith and with that degree of diligence, care and skill which an ordinarily prudent person in like position would use under similar circumstances, and may take into consideration the views and policies of any elected official or body, or other person and ultimately apply independent judgment in the best interest of the authority, its mission and the public; (h) at the time that each member takes and subscribes his or her oath of office, or within sixty days after the effective date of this paragraph if the member has already taken and subscribed his or her oath of office, execute an acknowledgment, in the form prescribed by the authorities budget office after consultation with the attorney general, in which the board member acknowledges that he or she understands his or her role, and fiduciary responsibilities as set forth in paragraph (g) of this subdivision, and acknowledges that he or she understands his or her duty of loyalty and care to the organization and commitment to the authority's mission and the public interest.

2. Individuals appointed to the board of a public authority shall participate in state approved training regarding their legal, fiduciary, financial and ethical responsibilities as directors of an authority within one year of appointment to a board. Board members shall participate in such continuing training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities and to adhere to the highest standards of responsible governance.

3. No chair who is also the chief executive officer shall participate in determining the level of compensation or reimbursement, or time and attendance rules for the position of chief executive officer.

4. Board members of each state and local authority, or subsidiary thereof, shall establish an audit committee to be comprised of not less than three independent members, 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 a 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 committee shall recommend to the board the hiring of a certified independent accounting firm for such authority, 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.

5. Notwithstanding any provision of any general, special or local law, municipal charter or ordinance to the contrary, no board of a state or local authority shall, directly or indirectly, including through any subsidiary, extend or maintain credit, arrange for the extension of credit, or renew an extension of credit, in the form of a personal loan to or for any officer, board member or employee (or equivalent thereof) of the authority.

6. Members of the audit committee shall be familiar with corporate financial and accounting practices.

7. Board members of each state and local authority, or subsidiary thereof, shall establish a governance committee to be comprised of not less than three independent members, who shall constitute a majority on the committee, and who shall possess the necessary skills to understand the duties and functions of the governance committee; provided, however, that in the event that a 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 to keep the board informed of current best governance practices; to review corporate governance trends; to recommend updates to the authority's corporate governance principles; to advise appointing authorities on the skills and experiences required of potential board members; to examine ethical and conflict of interest issues; to perform board self-evaluations; and to recommend by-laws which include rules and procedures for conduct of board business.

8. Board members of each state and local authority, or subsidiary thereof which issues debt, shall establish a finance committee to be comprised of not less than three independent members, who shall constitute a majority on the

committee, and who shall possess the necessary skills to understand the duties and functions of the committee; provided, however, that in the event that a 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 members of the finance committee to review proposals for the issuance of debt by the authority and its subsidiaries and make recommendations.

§ 2824-a. Mission statement and measurement report. Each state authority shall submit to the authorities budget office on or before March thirty-first, two thousand ten, and each local authority shall submit to the authorities budget office on or before March thirty-first, two thousand eleven, a proposed authority mission statement and proposed measurements which the authorities budget office shall post on its website. The proposed authority mission statement and proposed measurements shall have the following components: a brief mission statement expressing the purpose and goals of the authority, a description of the stakeholders of the authority and their reasonable expectations from the authority, and a list of measurements by which performance of the authority and the achievement of its goals may be evaluated. Each authority shall reexamine its mission statement and measurements on an annual basis, and publish a self-evaluation based on the stated measurements; provided, however, such reexamination may be waived pursuant to a determination by the director of the authorities budget office that such undertaking is unnecessary for an individual authority.

§ 2825. Membership on authorities and commissions; independence; and financial disclosure. Notwithstanding the provisions of any general, special or local law, municipal charter or ordinance: 1. No public officer or employee shall be ineligible for appointment as a trustee or member of the governing body of a state or local authority, as defined in section two of this chapter, and any public officer or employee may accept such appointment and serve as such trustee or member without forfeiture of any other public office or position of public employment by reason thereof.

2. Except for members who serve as members by virtue of holding a civil office of the state, the majority of the remaining members of the governing body of every state or local authority shall be independent members; provided, however, that this provision shall apply to appointments made on or after the effective date of chapter seven hundred sixty-six of the laws of two thousand five which added this subdivision. The official or officials having the authority to appoint or remove such remaining members shall take such actions as may be necessary to satisfy this requirement and further, shall consider the prospective diversity of the members of a state authority when making their determinations to appoint any member. For the purposes of this section, an independent member is one who:

(a) is not, and in the past two years has not been, employed by the public authority or an affiliate in an executive capacity;

(b) is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than fifteen thousand dollars for goods and services provided to the public authority or received any other form of financial assistance valued at more than fifteen thousand dollars from the public authority;

(c) is not a relative of an executive officer or employee in an executive position of the public authority or an affiliate; and

(d) is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, rate determinations or any other similar actions of the public authority or an affiliate.

3. Notwithstanding any other provision of any general, special or local law, municipal charter or ordinance to the contrary, board members, officers, and employees of a state authority shall file annual financial disclosure statements as required by section seventy-three-a of the public officers law. Board members, officers, and employees of a local public authority shall file annual financial disclosure statements with the county board of ethics for the county in which the local public authority has its primary office pursuant to article eighteen of the general municipal law.

§ 2826. Quorums and majorities. Notwithstanding any other provision of this chapter and notwithstanding any provision of any general, special or local law, whenever the whole number of the board of any authority or commission heretofore or hereafter continued or created by this chapter is three or more persons, a majority of the whole number of the members of such board, at a meeting duly held at a time fixed by law, or by any by-law duly adopted by such board, or at any duly adjourned meeting of such meeting or at any meeting duly held upon reasonable notice to all of the members of such board, shall constitute a quorum and not less than a majority of the whole number of such board may perform and exercise the powers authorized and provided in this chapter. For the purpose of this section the words "whole number" shall be construed to mean the total number which such board would have were there no vacancies and were none of the members of such board disqualified from acting.

§ 2827. Removal of authority members. Except as otherwise provided in this chapter, every member of every authority or commission heretofore or hereafter continued or created by this chapter, except ex-officio members, that is, members whose membership results by virtue of their incumbency of a public office, shall be removable by the public officer or public body which is empowered by this chapter to appoint such authority or commission member, for inefficiency, breach of fiduciary duty, neglect of duty or misconduct in office, provided, however, that such member shall be given a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days' notice.

§ 2827-a. Subsidiaries of public authorities. 1. Notwithstanding any law to the contrary, no state authority shall hereafter have the power to organize any subsidiary corporation unless the legislature shall have enacted a law granting such state authority such power for the organization of a specific corporation, provided, however, that a state authority may organize a subsidiary corporation pursuant to the following requirements:

a. the purpose for which the subsidiary corporation shall be organized shall be for a project or projects which the state authority has the power to pursue pursuant to its corporate purposes;

b. the primary reason for which the subsidiary corporation shall be organized shall be to limit the potential liability impact of the subsidiary's project or

projects on the authority or because state or federal law requires that the purpose of a subsidiary be undertaken through a specific corporate structure; and

c. the subsidiary corporation shall make the reports and other disclosures as are required of state authorities, unless the subsidiary corporation's operations and finances are consolidated with those of the authority of which it is a subsidiary.

2. In such cases where a state authority has the power to organize a subsidiary corporation pursuant to subdivision one of this section, the state authority shall file, no less than sixty days prior to the formation of such subsidiary, notice to the authorities budget office, the governor, the comptroller, and the legislature that it will be creating a subsidiary.

3. Subsidiary corporations formed under subdivision one of this section shall not have the authority to issue bonds, notes or other debts, provided, however, that such subsidiary corporations may issue notes or other debt to the public authority of which it is a subsidiary. No such debt issued by the subsidiary to its parent authority shall in total exceed, at any time, a principal amount of five hundred thousand dollars or, during the nine months after the formation of the subsidiary, one million dollars.

4. The certificate of incorporation or other document filed to organize a subsidiary corporation under this section shall state that the state authority is the person organizing the corporation.

5. Provided, however, that nothing in this section shall be construed to grant an authority the power to create a subsidiary where the authority does not otherwise have the power to do so.

6. On or before the first day of January, two thousand eleven, and annually on such day thereafter, any subsidiary public benefit corporation, in cooperation with its parent public benefit corporation, shall provide to the chair and ranking minority member of the senate finance committee, the chair and ranking minority member of the assembly ways and means committee, and each chair and ranking member of the assembly and senate committees on corporations, authorities and commissions a report on the subsidiary public benefit corporation. Such report shall include for each subsidiary:

a. The complete legal name, address and contact information of the subsidiary;

b. The structure of the organization of the subsidiary, including the names and titles of each of its members, directors and officers, as well as a chart of its organizational structure;

c. The complete bylaws and legal organization papers of the subsidiary;

d. A complete report of the purpose, operations, mission and projects of the subsidiary, including a statement of justification as to why the subsidiary is necessary to continue its operations for the public benefit for the people of the state of New York; and

e. Any other information the subsidiary public benefit corporation deems important to include in such report.

7. Notwithstanding any inconsistent provision of this section, paragraph b of subdivision one and subdivision three of this section shall not apply to an entity established in article ten-c of this chapter; provided, however, that no such public benefit corporation shall have the power to organize a subsidiary for the purpose of:

a. evading the requirements of an existing collective bargaining agreement; or

b. replacing or removing a certified employee organization.

§ 2828. Termination of public authorities. Every authority or commission hereafter created by this chapter shall terminate at the end of five years from the date of its creation if at the end of such period it has outstanding no liabilities; provided, however, that any appropriation made to such authority or commission by the state of New York or by any political subdivision thereof shall not be deemed a liability for the purposes of this section.

§ 2829. State and local authorities subject to the open meetings and freedom of information laws. All state and local authorities, as such terms are defined in section two of this chapter, as well as all subsidiaries of such state and local authorities, as such terms are defined in section two of this chapter, shall be subject to the provisions of articles six and seven of the public officers law relating to the freedom of information and open meetings laws respectively. All state and local authorities, as well as all subsidiaries of such state and local authorities, shall, to the extent practicable, stream all open meetings and public hearings on their website in real-time, post video recordings of all open meetings and public hearings on their website within five business days of the meeting or hearing and maintain such recordings for a period of not less than five years.

TITLE 3 - EMPLOYEES OF PUBLIC AUTHORITIES

§ 2850. Transfer of authority officers and employees. Subject to the civil service law and rules, transfer may be allowed between positions in any authority or commission heretofore or hereafter continued or created by this chapter, which is subject to the jurisdiction of the state or a municipal civil service commission, and positions in the service of the state or a civil division thereof.

§ 2850-a. Emergency service volunteers; paid leave. Notwithstanding any other provisions of law to the contrary, public officers and employees of public authorities who are certified by the American Red Cross as disaster volunteers shall be granted leave from work with pay to participate in specialized disaster relief operations upon written request for such services by the American Red Cross and upon the approval of the chief executive of the public authority for which the public officer or employee serves. The public officer or employee shall be compensated at his or her regular rate of pay for those regular work hours during which the public officer or employee is absent from work while participating in authorized specialized disaster relief operations. Such leave shall be provided without loss of seniority, compensation, sick leave, vacation

leave or other overtime compensation to which the volunteer is otherwise entitled and shall not exceed twenty days in any calendar year.

§ 2851. Age not to be bar to employment by public authorities. No public authority shall hereafter prohibit, prevent, disqualify or discriminate against any person applying for employment by, such authority, who is physically and mentally qualified, or from competing, participating or registering for a position, or be penalized in a final rating for any position, by reason of his or her age. Any existing rule, regulation, penalty or requirement resolution preventing the hiring of persons because of age shall be void, except that nothing herein contained, shall prevent any public authority from adopting reasonable minimum or maximum age requirements for positions such as police officer, firefighter, guard or other positions which require extraordinary physical effort except where age limits for such positions are already prescribed by law.

Notwithstanding any provisions to the contrary, no person who is physically or mentally qualified may be disqualified from, competing, participating or registering for a promotional examination or be penalized in a final rating or barred from promotion after having passed such promotion examination by reason of his or her age, by any public authority.

§ 2852. Senate confirmation of certain chief executive officers. Where the appointment of any chief executive officer is subject to confirmation by the senate pursuant to subdivision five of section sixteen hundred seventy-eight of this chapter, subdivision six of section three hundred fifty-four of this chapter, section one thousand four of this chapter, or subdivision (c) of section one thousand twenty-f of this chapter the senate shall vote to confirm any such appointment within sixty days of its submission to the senate during session, or if such submission is made when the senate is not in session, within seven days of the convening for session. If the senate fails to vote to confirm any such appointment within the time prescribed in this section, such appointment shall be deemed confirmed without any further action by the senate.

§ 2853. Confidentiality agreements. 1. Definitions. For the purposes of this section:

a. "confidentiality agreement" shall mean an agreement entered into between a state authority or a local authority with a former or current employee, officer or member of the governing board of such authority that prevents disclosure of any records or information, as defined in subdivision four of section eighty-six of the public officers law, during or after their employment or service.

b. "local authority" shall mean a local authority as defined in section two of this chapter.

c. "state authority" shall mean a state authority as defined in section two of this chapter.

2. No state authority or local authority shall enter into a confidentiality agreement, unless:

a. it covers only records or information that are exempt from disclosure pursuant to subdivisions two and four of section eighty-seven of the public officers law and any rules promulgated and published thereto; or

b. the agreement covers both records or information exempt from disclosure, and those subject to disclosure under section eighty-seven of the public officers law, but only if:

(i) the agreement does not prohibit any disclosure of records or information related to compensation or benefits given to an employee, officer or member of the governing board or of illegal conduct or wrongdoing by the authority;

(ii) the authority is unable to specifically determine at the time the confidentiality agreement is entered into which records or information are exempt from disclosure in accordance with subdivision two of section eighty-seven of the public officers law;

(iii) the authority establishes a process by which a current or former employee, officer or member of the governing board covered by the confidentiality agreement may obtain a ruling from the authority as to whether he or she may disclose any records or information covered by such agreement in accordance with the procedures established under subdivision four of section eighty-nine of the public officers law, including any right to challenge the authority's decision provided by that section; and

(iv) the authority notifies the current or former employee, officer or member of the governing board in the agreement of his or her right to seek such a ruling.

3. Nothing in this section shall require disclosure of information otherwise protected from disclosure by law.

4. Any provision in any contract or other agreement entered into in violation of this section shall have no force and effect.

§ 2854. Severance packages. 1. For the purposes of this section:

(a) "at-will employee" shall mean an employee of any entity organized under this chapter. Any employee that is covered by a collective bargaining agreement or union contract shall not be considered an at-will employee for the purpose of this section.

(b) "severance pay for an at-will employee" shall include benefits or compensation with a quantifiable monetary value that are provided for an at-will employee upon termination of employment and shall not be considered part of the at-will employee's annual wages and benefits. "Severance pay for an at-will employee" shall not include payments for accumulated vacation, accumulated sick leave, and accumulated sick leave liquidated to cover the cost of group term insurance or payments of periodic contributions by an employer toward premiums for group insurance policies.

2. Notwithstanding any other law, rule or regulation to the contrary, severance pay provided for an at-will employee leaving employment shall not exceed an amount equivalent to their prior three months' salary.

3. Notwithstanding any other law, rule or regulation to the contrary, the severance pay for an at-will employee shall be excluded from retirement deductions and from any calculations of retirement benefits.

4. If a retired or terminated at-will employee dies before all of their severance pay has been disbursed, the balance due must be paid to a named beneficiary or, lacking one, to the decedent's estate.

5. No collective bargaining agreement or union contract shall be

altered by the provisions of this section.

TITLE 3-A - BUSINESS PRACTICES OF PUBLIC AUTHORITIES

§ 2855. Electronic method of payment; periodic charges. Notwithstanding the provisions of any law to the contrary, if any authority shall offer any electronic method of payment for tolls, fares, fees, rentals, or other charges, including but not limited to a system called E-ZPass, such authority shall not impose any periodic administrative or other charge for the privilege of using such electronic method of payment for such charges. Nothing in this section shall be construed to prohibit any authority from making any charge for extra services requested by a holder of such electronic method of payment, any charge for lost or damaged equipment, or for defaults, such as charges for dishonored checks. The authority shall not enter any agreement with bondholders that would require the imposition of administrative or other periodic charges relating to electronic methods of payment prohibited by this section.

§ 2856. Consideration of public authority debt. On or before a date fixed by the authorities budget office, every authority not subject to a statutory limit on bonds, notes, or other debt obligations it may issue, shall submit to the authorities budget office a statement of intent to guide the authority's issuance and overall amount of bonds, notes, or other debt obligations it may issue.

§ 2857. Actions by an authority. No state or local authority shall fire, discharge, demote, suspend, threaten, harass or discriminate against an employee because of the employee's role as a whistleblower, insofar as the actions taken by the employee are legal.

§ 2858. Public water and sewer authority powers. A public water or sewer authority, created pursuant to article five of this chapter, shall have the power to specify the manner in which exterior manhole covers, containing grease traps or interceptors shall be regulated and inspected to prevent unauthorized access, in addition to the requirements set forth in the uniform fire prevention and building code pursuant to article eighteen of the executive law.

TITLE 4 - CONTRACTS OF PUBLIC AUTHORITIES

§ 2875. Ground for cancellation of contract by public authority. A clause shall be inserted in all specifications or contracts hereafter made or awarded by any public authority or by any official of any public authority created by the state or any political subdivision, for work or services performed or to be performed or goods sold or to be sold, to provide that upon the refusal by a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract,

(a) such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or official thereof, for goods, work or services, for a period of five years after such refusal, and to provide also that

(b) any and all contracts made with any public authority or official thereof, since the effective date of this law, by such person and by any firm, partnership or corporation of which he is a member, partner, director or officer may be cancelled or terminated by the public authority without incurring any penalty or damages on account of such cancellation or termination, but any monies owing by the public authority for goods delivered or work done prior to the cancellation or termination shall be paid.

§ 2875-a. Definitions. As used in this article, the following terms shall have the following meanings unless otherwise specified:

1. "Construction item" means any such item or material used in construction and which is procured directly by the public authority or office or any such item or material commonly used in construction which is procured by a person, other than a municipality, under contract with the public authority or office.

2. "Office" means the office of general services.

3. "Practicable" means capable of being used without violating the following criteria: performance, availability at a reasonable price, availability within a reasonable period of time and maintenance of a satisfactory level of competition.

4. "Product" means any material, supply, equipment or construction item or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such product.

5. "Secondary materials" means any material recovered from or otherwise destined for the waste stream, including but not limited to, post-consumer material, industrial scrap material, and overstock or obsolete inventories from distributors, wholesalers and other companies as defined in rules and regulations promulgated by the commissioner of general services but such term does not include those materials and byproducts generated from, and commonly reused within an original manufacturing process.

6. "Specification" means any description of the physical or functional characteristics, or of the nature of a material, supply, equipment or construction item. It may include a description of any requirement for inspecting, testing or preparing a material, supply, equipment or construction item for delivery.

§ 2875-b. Specifications. Within twelve months of the effective date of this section all public authorities or commissions created or continued by this chapter shall review their present product specifications to determine whether such require that products be manufactured from virgin materials or exclude products manufactured from secondary materials and shall, on or before April first, nineteen hundred ninety revise and adopt their product specifications as may be necessary to ensure that:

a. Where such specifications exclude the use of products manufactured from secondary materials or require that products be manufactured from virgin materials only, such exclusions or requirements be eliminated; provided however, that specifications need not be revised if the public authority or commission demonstrates that for a particular end use a product containing secondary materials would not meet necessary performance standards.

b. Performance standards, specifications and a product's intended end use are related, and clearly identified when feasible.

c. Specifications are not overly stringent for a particular end use or performance standard.

d. Specifications incorporate or require the use of secondary materials to the maximum extent practicable without jeopardizing the performance or intended end use of the product; provided however, where the public authority or commission demonstrates that for a particular end use a product containing secondary materials would not meet necessary performance standards, such specifications need not incorporate or require the use of secondary materials.

§ 2876. Disqualification to contract with public authority. Any person who, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract had with the state, any political subdivision thereof, a public authority or with a public department, agency or official of the state or of any political subdivision thereof or of a public authority, refuses to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract, and any firm, partnership or corporation, of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or any official of any public authority created by the state or any political subdivision, for goods, work or services, for a period of five years after such refusal or until a disqualification shall be removed pursuant to the provisions of section twenty-eight hundred seventy-seven of this title.

It shall be the duty of the officer conducting the investigation before the grand jury, the head of a state department, the chairman of the temporary state commission or other state agency, the organized crime task force in the department of law, the head of a city department or other city agency before which the refusal occurs to send notice of such refusal, together with the names of any firm, partnership or corporation of which the person so refusing is known to be a member, partner, officer or director, to the commissioner of transportation of the state of New York, or the commissioner of general services as the case may be, and the appropriate departments, agencies and officials of the state, political subdivisions thereof or public authorities with whom the persons so refusing and any firm, partnership or corporation of which he is a member, partner, director or officer, is known to have a contract. However, when such refusal occurs before a body other than a grand jury, notice of refusal shall not be sent for a period of ten days after such refusal occurs. Prior to the expiration of this ten day period, any person, firm, partnership or

corporation which has become liable to the cancellation or termination of a contract or disqualification to contract on account of such refusal may commence a special proceeding at a special term of the supreme court, held within the judicial district in which the refusal occurred, for an order determining whether the questions in response to which the refusal occurred were relevant and material to the inquiry. Upon the commencement of such proceeding, the sending of such notice of refusal to answer shall be subject to order of the court in which the proceeding was brought in a manner and on such terms as the court may deem just. If a proceeding is not brought within ten days, notice of refusal shall thereupon be sent as provided herein.

§ 2877. Removal of disqualification of public contractors by petition. 1. Any firm, partnership or corporation which has become subject to the cancellation or termination of a contract or disqualification to contract on account of the refusal of a member, partner, director or officer thereof to waive immunity when called to testify, as provided in sections twenty-eight hundred seventy-five and twenty-eight hundred seventy-six of this title, may, upon ten days' notice to the attorney general and to the officer who conducted the investigation before the grand jury or other body in which the refusal occurred, commence a special proceeding at a special term of the supreme court held within the judicial district in which the refusal occurred for a judgment discontinuing the disqualification. Such application shall be in the form of a petition setting forth grounds, including that the cooperation by petitioner with the grand jury or other body at the time of the refusal was such, and the amount and degree of control and financial interest, if any, in the petitioning firm, partnership or corporation by the member, partner, officer or director who refused to waive immunity is such that it will not be in the public interest to cancel or terminate petitioner's contracts or to continue the disqualification, as provided in sections twenty-eight hundred seventy-five and twenty-eight hundred seventy-six of this title.

A copy of the petition and accompanying papers shall be served with the notices to be given pursuant to this subdivision.

2. Upon the filing of such petition the court may stay as to petitioner, pending a decision upon the petition, the cancellation or termination of any contracts resulting from such refusal upon such terms as to notice or otherwise as may be just.

3. At least two days prior to the return day, the officer who conducted the investigation before the grand jury or other body and the attorney general may file answers to the petition or apply for judgment dismissing the petition as a matter of law. On or before the return day the petitioner may file a reply to the answer.

4. Upon the return day the court may, upon the petition and answer and other papers filed, forthwith render such judgment as the case requires, or if a triable issue of fact is duly raised, it shall forthwith be tried before a court sitting without a jury or before a referee. The provisions of statute or rule governing references in an action shall apply to a reference under this subdivision.

5. The court shall render judgment dismissing the petition on the merits or discontinuing the disqualification upon the ground that the public interest

would be served by its discontinuance, and granting such other relief as to the cancellation or termination of contracts as may be appropriate, but without costs to petitioner.

§ 2877-a. The New York state buy American salt act. 1. Use of American materials. (a) Notwithstanding any other provision of law, when soliciting a contract for the purchase of rock salt or sodium chloride, any public authority may award such contract to the responsible and reliable bidder offering to supply rock salt or sodium chloride that is mined or hand harvested in the United States, and which offer is within ten percent of the lowest price or best value offer, rather than to the lowest responsible and reliable bidder.

(b) If it has been determined by a court or federal or state agency that any person intentionally:

(i) affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any rock salt, or sodium chloride product used in projects to which this section applies, sold in or shipped to the United States that was not mined or hand harvested in the United States; or

(ii) represented that any rock salt, or sodium chloride product procured in a contract to which this section applies that was not produced in the United States, was produced in the United States; then that person shall be ineligible to receive any contract or subcontract with this state pursuant to the debarment or suspension provisions provided under section one hundred thirty-nine-a of the state finance law.

(c) This section shall be applied in a manner consistent with the state's obligations under any applicable international agreements pertaining to government procurement.

2. Definitions. For the purposes of this section, the following words shall have the following meanings unless specified otherwise:

(a) "Public authority" means a state, local or interstate authority as those terms are defined in section two of this chapter;

(b) "Mined or hand harvested in the United States" means: extracted or collected from land or ponds within the boundary of the United States, from the initial separation from the earth through the addition of any additives necessary for commercial sale;

(c) "United States" means the United States of America and include all territory, continental or insular, subject to the jurisdiction of the United States.

§ 2603-a. Letting of certain contracts involving steel products. 1. Notwithstanding any other provision of law, all public authorities shall award contracts involving steel products as follows:

a. All purchase contracts for supplies, material or equipment involving an estimated expenditure in excess of fifty thousand dollars shall require with respect to materials, supplies and equipment made of, fabricated from, or

containing steel components, that such steel components be produced or made in whole or substantial part in the United States, its territories or possessions. The provisions of this paragraph shall not apply to motor vehicles and automobile equipment assembled in Canada in conformity with the United States-Canadian trade agreements known as the "Automotive Products Trade Act of 1965" or any amendments thereto.

b. All contracts in excess of one hundred thousand dollars for the construction, reconstruction, alteration, repair, maintenance or improvement of public works shall require that all structural steel, reinforcing steel or other major steel items to be incorporated in the work of the contract shall be produced or made in whole or substantial part in the United States, its territories or possessions.

2. Notwithstanding the provisions of subdivision one of this section, all contracts over one million dollars in value made and awarded by the dormitory authority, the metropolitan transportation authority, the bridge authority or the thruway authority, on its account or for the benefit of a state agency or authority, for the construction, reconstruction, alteration, repair, maintenance or improvement of any road or bridge, shall contain a provision that the structural iron and structural steel used or supplied in the performance of the contract or any subcontract thereto and permanently incorporated into the surface road or bridge shall be produced or made in whole or substantial part in the United States, its territories or possessions. In the case of a structural iron or structural steel product all manufacturing must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving the refinement of steel additives. For purposes of this section, "permanently incorporated" shall mean an iron or steel product that is required to remain in place at the end of the project contract, in a fixed location, affixed to the public work to which it was incorporated. Iron and steel products that are capable of being moved from one location to another are not permanently incorporated into a public building or public work.

3. The provisions of this section shall not apply if the governing board or body of such public authority, in its discretion, determines that such provisions would result in unreasonable costs or that such iron, steel products or steel components including without limitation structural iron and steel; cannot be produced or made in the United States in sufficient and reasonably available quantities or of satisfactory quality or design, or would result in the loss or reduction of federal funding for the subject contract or the ability to obtain such federal funding would be limited or jeopardized by compliance with this section; or there is an immediate or emergency need existing for such structural iron, structural steel products or structural steel components; or such steel or iron is not manufactured in the United States in sufficient and reasonably available quantities or of satisfactory quality or design to meet the authority's requirements; or obtaining for such iron, steel products or steel components in the United States would increase the cost of the contract by an unreasonable amount; or for such iron, steel products or steel components is necessary for the operation of or repairs of critical infrastructure that is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare; or a reciprocal trade agreement or treaty has been negotiated by the state or by the United States government on behalf of or including this

state with a foreign nation or government for nondiscriminatory governmental procurement practices or policies with such foreign nation or government.

4. Nothing in this section is intended to contravene any existing treaties, laws, trade agreements, or regulations of the United States or subsequent trade agreements entered into between any foreign countries and the state or the United States.

5. Any authority subject to the provisions of this section shall be authorized to establish rules and regulations for the effective administration of this section, provided however, nothing in this section shall be interpreted to require a contractor to certify that the iron or steel used in a road or bridge pursuant to this section is made in whole or in substantial part in the United States.

§ 2878. Statement of non-collusion in bids or proposals to public authority. Every bid or proposal hereafter made to a public authority or to any official of any public authority created by the state or any political subdivision, where competitive bidding is required by statute, rule, regulation or local law, for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by the bidder and affirmed by such bidder as true under the penalties of perjury: Non-collusive bidding certification.

"(a) By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

(1) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;

(2) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

(3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition."

(b) A bid shall not be considered for award nor shall any award be made where (a) (1) (2) and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (a) (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the state, public department or agency to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed

or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of subparagraph one (a).

2. Any bid hereafter made to any public authority or to any official of any public authority created by the state or any political subdivision, by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.

§ 2878-a. Purchasing of products. 1. All products purchased shall be recycled products, which meet contract specifications, unless the only available product does not contain recycled content, and provided that the cost of the recycled product does not exceed a cost premium of ten percent above the cost of a comparable product that is not a recycled product or, if at least fifty percent of the secondary materials utilized in the manufacture of that product are generated from the waste stream in New York state, the cost of the recycled product does not exceed a cost premium of fifteen percent above the cost of a comparable product that is not a recycled product. For the purpose of this section and until July first, nineteen hundred ninety-six, "recycled product" shall mean any product which has been manufactured from secondary materials, as defined in subdivision one of section two hundred sixty-one of the economic development law, and meets secondary material content requirements adopted by the office of general services under subdivision one of section one hundred seventy-seven of the state finance law for products available to the public authority under state contract or, if no such contract for such product is available to the public authority, any product which meets the secondary material content requirements adopted by the public authority with respect to a specific commodity procurement by the public authority. On and after July first, nineteen hundred ninety-six, "recycled product" shall mean, for the purposes of this section, any product which has been manufactured from secondary materials, as defined in subdivision one of section two hundred sixty-one of the economic development law, and which meets the requirements of subdivision two of section 27-0717 of the environmental conservation law and regulations promulgated pursuant thereto.

2. Whenever a public authority, corporation or commission shall purchase or cause the purchase of printing on recycled paper, it shall require the printed material to contain the official state recycling emblem established pursuant to subdivision two of section 27-0717 of the environmental conservation law and regulations promulgated pursuant thereto if such paper has been approved by the department of environmental conservation as satisfying the requirements of such statute and regulations, or, if such paper has not been so approved, require the printed material to include a printed statement which indicates the percentages of pre-consumer and post-consumer recycled material content of such paper.

§ 2878-b. Source separation of wastes. 1. No later than September first, nineteen hundred eighty-nine each public authority, corporation or commission shall

devise and institute a program to source separate waste paper generated within its facilities.

Such program shall include marketing arrangements and appropriate procedures to ensure the recovery of discarded paper in a noncontaminated condition. This program may be phased in, utilizing those office facilities most conducive to operation of a source separation program, but shall be fully implemented by July first, nineteen hundred ninety.

2. No later than July first, nineteen hundred ninety, each public authority, corporation or commission shall devise and institute a program to source separate all other waste generated within its facilities that is not covered by this section. Such program shall include marketing arrangements and appropriate procedures to ensure the recovery of waste for which the full avoided costs of proper collection, transportation and disposal of source separated materials are equal to or greater than the cost of collection, transportation and sale of said material less the amount received from the sale of said material. This program may be phased in, utilizing those office facilities most conducive to operation of a source separation program but shall be fully implemented by July first, nineteen hundred ninety-one.

3. A public authority, corporation or commission occupying facilities made available or provided by the office of general services may comply with the provisions of this section by participating in a program conducted by the office of general services pursuant to subdivisions four and five of section one hundred seventy-seven of the state finance law.

§ 2878-c. Certain contracts involving personal protective equipment and medical supplies. 1. Notwithstanding any other provisions of law, all contracts over fifty thousand dollars in value made and awarded by any state authority for the purchase of personal protective equipment or medical supplies shall require that the personal protective equipment or medical supply items be produced or made in whole or substantial part in the United States.

2. For purposes of this section:

(a) "personal protective equipment" means all equipment worn to minimize exposure to medical hazards, including gloves, masks, face shields, eye protection, respirators, medical hair and shoe coverings, and disposable gowns and aprons.

(b) "medical supplies" means materials necessary to respond to health emergencies or pandemics, including and without limitation ventilators, medical test kits, and vaccines.

(c) "United States" means the United States, its territories, or possessions.

3. The provisions of this section shall not apply if the head of the state authority purchasing the personal protective equipment or medical supplies, in his or her sole discretion, determines that such provisions would not be in the public interest; that obtaining such personal protective equipment or medical supplies in the United States would increase the cost of the contract by an unreasonable amount; that such personal protective equipment or medical supplies cannot be produced or made in the United States in sufficient and reasonably

available quantities and of satisfactory quality or design to meet the state authority's requirements; or that purchasing personal protective equipment or medical supplies manufactured outside of the United States is necessary to avoid a delay in the delivery of critical services that could compromise the public welfare.

4. Nothing in this section is intended to contravene any existing treaties, laws, trade agreements, or regulations of the United States or subsequent trade agreements entered into between any foreign countries and the state or the United States.

5. Subject to the provisions of this section, the department of economic development, in consultation with the office of general services and the division of the budget, shall be authorized to establish rules and regulations for the effective administration of this section.

§ 2879. Procurement contracts. 1. Every public authority and public benefit corporation, a majority of the members of which consist of persons either appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, (such entities to be hereinafter in this section referred to as "corporation") shall adopt by resolution comprehensive guidelines which detail the corporation's operative policy and instructions regarding the use, awarding, monitoring and reporting of procurement contracts. Guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

2. For purposes of this section, procurement contracts shall mean any written agreement for the acquisition of goods or services of any kind, in the actual or estimated amount of five thousand dollars or more.

3. The guidelines approved by the corporation shall include, but not be limited to the following:

(a) A description of the types of goods purchased, and for procurement contracts for services, a description of those areas of responsibility and oversight requiring the use of personal services and the reasons for the use of personal services in such areas.

(b) Requirements regarding the selection of contractors, which shall include provisions:

(i) for the selection of such contractors on a competitive basis, and provisions relating to the circumstances under which the board may by resolution waive competition, including, notwithstanding any other provision of law requiring competition, the purchase of goods or services from: (A) small business concerns, or sellers of goods or technology that are recycled or remanufactured, or, for corporations not defined as a state authority in section three hundred ten of the executive law, those certified as minority or women-owned business enterprises in an amount not to exceed five hundred thousand dollars without a formal competitive process, and (B) for corporations defined as a state authority in section three hundred ten of the executive law those certified as minority or women-owned business enterprises and service-disabled veteran-owned business enterprises for any state authority as defined in section forty of the

veterans' services law, in an amount not to exceed one million five hundred thousand dollars without a formal competitive process;

(ii) describing when the award of procurement contracts shall require approval of the board by resolution, provided that any contract involving services to be rendered over a period in excess of one year shall require the approval of the board by resolution and an annual review of the contract by the board;

(iii) setting forth responsibilities of contractors;

(iv) as used in this subparagraph, the term "professional firm" shall be defined as any individual or sole proprietorship, partnership, corporation, association, or other legal entity permitted by law to practice the professions of architecture, engineering or surveying.

The corporation shall not refuse to negotiate with a professional firm solely because the ratio of the "allowable indirect costs" to direct labor costs of the professional firm or the hourly labor rate in any labor category of the professional firm exceeds a limitation generally set by the corporation in the determination of the reasonableness of the estimated cost of services to be rendered by the professional firm, but rather the corporation should also consider the reasonableness of cost based on the total estimated cost of the service of the professional firm which should include, among other things, all the direct labor costs of the professional firm for such services plus all "allowable indirect costs," other direct costs, and negotiated profit of the professional firm. "Allowable indirect costs" of a professional firm are defined as those costs generally associated with overhead which cannot be specifically identified with a single project or contract and are considered reasonable and allowable under specific state contract or allowability limits.

(c) An identification of those areas or types of contracts for which minority or women-owned business enterprises may best bid so as to promote and assist participation by such enterprises and facilitate a fair share of the awarding of contracts to such enterprises. For the purposes of this section, a minority business enterprise means any business enterprise, including a sole proprietorship, partnership or corporation that is:

(i) at least fifty-one percent owned by one or more minority group members or in the case of a publicly-owned business at least fifty-one percent of the common stock or other voting interests of which is owned by one or more minority group members;

(ii) an enterprise in which the minority ownership is real, substantial and continuing;

(iii) an enterprise in which the minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and

(iv) an enterprise authorized to do business in New York state, independently owned and operated, and not dominant in its field.

(d) For the purposes of this section, a minority group member means a United States citizen or permanent resident noncitizen who is and can demonstrate membership in one of the following groups:

(i) Black persons having origins in any of the Black African racial groups not of Hispanic origin;

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;

(iii) Asian and Pacific Islander persons having origins in any of the Far East, Southeast Asia, the Indian sub-continent or the Pacific Islands; or

(iv) Native American persons having origins in any of the original peoples of North America.

(e) For the purposes of this section, a women-owned business enterprise means a business enterprise, including a sole proprietorship, partnership or corporation which is:

(i) at least fifty-one percent owned by one or more United States citizens or permanent resident noncitizens who are women or in the case of a publicly-owned business at least fifty-one percent of the common stock or other voting interests of which is owned by United States citizens or permanent resident noncitizens who are women;

(ii) an enterprise in which the ownership interest of women is real, substantial and continuing;

(iii) an enterprise in which the women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise; and

(iv) an enterprise authorized to do business in New York state, independently owned and operated, and not dominant in its field.

(f) Requirements for the designation of one or more senior staff of the corporation to oversee the corporation's programs established to promote and assist: (i) participation by certified minority or women-owned business enterprises in the corporation's procurement opportunities and facilitation of the award of procurement contracts to such enterprises; (ii) the utilization of certified minority and women-owned business enterprises as subcontractors and suppliers by entities having procurement contracts with the corporation; and (iii) the utilization of partnerships, joint ventures or other similar arrangements between certified minority and women-owned business enterprises and other entities having procurement contracts with the corporation. Such staff shall be familiar with the procurement of the types of construction, financial, legal or professional services utilized by the corporation, report directly to the corporation's executive director, president or chief executive officer and either directly or through their designees participate in the procurement process.

(g) Requirements for providing notice, in addition to any other notice of procurement opportunities required by law, to professional and other organizations that serve minority and women-owned business enterprises providing the types of services procured by the corporation.

(h) Procedures for maintaining lists of qualified certified minority and women-owned business enterprises, including professional firms that have expressed an interest in doing business with the corporation and ensuring that such lists are updated regularly. The corporation shall also consult the lists of certified minority and women-owned business enterprises maintained by the department of economic development pursuant to article fifteen-A of the executive law.

(i) The establishment of appropriate goals for participation by minority or women-owned business enterprises in procurement contracts awarded by the corporation and for the utilization of minority and women-owned enterprises as subcontractors and suppliers by entities having procurement contracts with the corporation. Statewide numerical participation target goals shall be established by each authority based on the findings of the two thousand ten disparity study.

(j) Requirements to conduct procurements in a manner that will enable the corporation to achieve the maximum feasible portion of the goals established pursuant to paragraph (i) of this subdivision and that eliminates barriers to participation by minority and women-owned business enterprises in the corporation's procurements. Such procurement requirements shall include the following:

(A) Measures and procedures to ensure that certified businesses shall be given the opportunity for maximum feasible participation in the performance of state contracts and to assist in the corporation's identification of those state contracts for which certified businesses may best bid to actively and affirmatively promote and assist their participation in the performance of state contracts so as to facilitate the corporation's achievement of the maximum feasible portion of the goals for state contracts to such businesses;

(B) Provisions designating the division of minority and women-owned business development to certify and decertify minority and women-owned business enterprises for all corporations through a single process that meets applicable state and federal requirements;

(C) A requirement that each contract solicitation document accompanying each solicitation set forth the expected degree of minority and women-owned business enterprise participation based, in part, on:

I. the potential subcontract opportunities available in the prime procurement contract; and

II. the availability of certified minority and women-owned business enterprises to respond competitively to the potential subcontract opportunities;

(D) A requirement that each corporation provide a current list of certified minority business enterprises to each prospective contractor;

(E) Provisions relating to joint ventures, under which a bidder may count toward meeting its minority business enterprise participation goal, the minority and women-owned business enterprise portion of the joint venture;

(F) Provisions under which the corporation may waive obligations of the contractor relating to minority and women-owned business enterprise participation after a showing of good faith efforts to comply with the

requirements of this act pursuant to the waiver provisions contained in subdivision six of section three hundred thirteen of the executive law;

(G) A requirement that the corporation verify that minority and women-owned business enterprises listed in a successful bid are actually participating to the extent listed in the project for which the bid was submitted;

(H) In the implementation of this section, the contracting corporation shall:

I. consider, where practicable, the severability of construction projects and other bundled contracts;

II. implement a program that will enable the corporation to evaluate each contract to determine the appropriateness of the goal pursuant to paragraph (i) of this subdivision;

III. consider compliance with the requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuates the purpose of this section; and

IV. consult the most recent disparity study pursuant to article fifteen-A of the executive law.

(k) A listing of the types of provisions to be contained in procurement contracts, including provisions concerning the nature and monitoring of the work to be performed, the use of corporate supplies and facilities, the use of corporate personnel and any other provisions.

(l) Provisions regarding procurement contracts which involve former officers or employees of the corporation.

(m) Procedures regarding procurement contracts which are exempt from the publication requirements of article four-C of the economic development law.

(n) Policies to promote the participation by New York state business enterprises and New York state residents in procurement contracts, including, but not limited to:

(i) providing for the corporation to collect and to consult the specifications of New York state business enterprises in developing specifications for any procurement contract for the purchase of goods where possible, practicable, feasible and consistent with open bidding, except for procurement contracts for which the corporation would be expending funds received from another state. The corporation shall, where feasible, make use of the stock item specification forms prepared by the commissioner of general services, and where necessary, consult with the commissioner of the office of general services, in developing such specifications and make such determinations; and

(ii) with the cooperation of the department of economic development and through cooperative efforts with contractors, providing for the notification of New York state business enterprises of opportunities to participate as subcontractors and suppliers on procurement contracts let by the corporation in an amount estimated to be equal to or greater than one million dollars and promulgating procedures which will assure compliance by contractors with such notification. Once awarded the contract such contractors shall document their efforts to encourage the participation of New York state business enterprises

as suppliers and subcontractors on procurement contracts equal to or greater than one million dollars. Documented efforts by a successful contractor shall consist of and be limited to showing that such contractor has (a) solicited bids, in a timely and adequate manner, from New York state business enterprises including certified minority and women-owned business, or (b) contacted the New York state department of economic development to obtain listings of New York state business enterprises, or (c) placed notices for subcontractors and suppliers in newspapers, journals and other trade publications distributed in New York state, or (d) participated in bidder outreach conferences. If the contractor determines that New York state business enterprises are not available to participate on the contract as subcontractors or suppliers, the contractor shall provide a statement indicating the method by which such determination was made. If the contractor does not intend to use subcontractors on the contract, the contractor shall provide a statement verifying such intent; and

(iii) except for procurement contracts for which the corporation would be expending funds received from another state, the corporation shall include in all bid documents provided to potential bidders a statement that information concerning the availability of New York state subcontractors and suppliers is available from the New York state department of economic development, which shall include the directory of certified minority and women-owned businesses, and it is the policy of New York state to encourage the use of New York state subcontractors and suppliers, and to promote the participation of minority and women-owned businesses where possible, in the procurement of goods and services; and

(iv) with the cooperation of the community services division of the department of labor and through cooperative efforts with contractors, providing for the notification of New York state residents of employment opportunities arising in New York state out of procurement contracts let by the corporation in an amount estimated to be equal to or greater than one million dollars; and promulgating procedures which will assure compliance by contractors with such notification by requiring contractors to submit post-award compliance reports documenting their efforts to provide such notification through listing any such positions with the community services division, or providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements; and

(v) including in each set of documents soliciting bids on procurement contracts to let by the corporation a statement notifying potential bidders located in foreign countries that the corporation may assign or otherwise transfer offset credits created by such procurement contract to third parties located in New York state; providing for the assignment or other form of transfer of offset credits created by such procurement contracts, directly or indirectly, to third parties located in New York state, in accordance with the written directions of the commissioner of economic development; and providing for the corporation to otherwise cooperate with the department of economic development in efforts to get foreign countries to recognize offset credits assigned or transferred to third parties located in New York state created by such procurement contracts; and

(vi) promulgating procedures which will assure compliance with the federal equal employment opportunity act of 1972 (P.L. 92-261), as amended, by contractors of the corporation.

(o) For the purposes of this section, a "New York state business enterprise" means a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by the corporation and which are substantially manufactured, produced or assembled in New York state, or services which are sought by the corporation and which are substantially performed within New York state.

(p) For the purposes of this section, a "New York resident" means a natural person who maintains a fixed, permanent and principal home located within New York state and to which such person, whenever temporarily located, always intends to return.

4. Each corporation shall have the power from time to time to amend such procurement contract guidelines in accordance with the provisions of this section.

5. (a) Each corporation shall notify the commissioner of economic development of the award of a procurement contract for the purchase of goods or services from a foreign business enterprise in an amount equal to or greater than one million dollars simultaneously with notifying the successful bidder therefor. No corporation shall thereafter enter into a procurement contract for said goods or services until at least fifteen days has elapsed, except for procurement contracts awarded on an emergency or critical basis, or where the commissioner of economic development waives the provisions of this sentence. The notification to the commissioner of economic development shall include the name, address and telephone and facsimile number of the foreign business enterprise, a brief description of the goods or services to be obtained pursuant to the proposed procurement contract, the amount of the proposed procurement contract, the term of the proposed procurement contract, and the name of the individual at the foreign business enterprise or acting on behalf of the same who is principally responsible for the proposed procurement contract. Such notification shall be used by the commissioner of economic development solely to provide notification to New York state business enterprises of opportunities to participate as subcontractors and suppliers on such procurement contracts, to promote and encourage the location and development of new business in the state, to assist New York state business enterprises in obtaining offset credits from foreign countries, and to otherwise investigate, study and undertake means of promoting and encouraging the prosperous development and protection of the legitimate interest and welfare of New York state business enterprises, industry and commerce.

(b) As used in this section, the following terms shall have the following meanings, unless a different meaning appears from the context:

(i) "Foreign business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale, lease or other form of exchange, goods which are sought by the corporation and which are substantially produced outside New York state, or services, other than construction services, sought by the corporation which are substantially performed outside New York state. For purposes of construction services, foreign

business enterprise shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which has its principal place of business outside New York state.

(ii) "New York state business enterprise" shall mean a business enterprise, including a sole proprietorship, partnership or corporation, which offers for sale or lease or other form of exchange, goods which are sought by the corporation and which are substantially manufactured, produced or assembled in New York state, or services, other than construction services, which are sought by the corporation and which are substantially performed within New York state. For purposes of construction services, a New York state business enterprise shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which has its principal place of business in New York state.

(iii) "Discriminatory jurisdiction" shall mean any other country, nation, province, state or political subdivision thereof which employs a preference or price distorting mechanism to the detriment of or otherwise discriminates against a New York state business enterprise in the procurement of goods and services by the same or a non-governmental entity influenced by the same. Such discrimination may include, but is not limited to, any law, regulation, procedure or practice, terms or license, authorization, or funding or bidding rights which requires or encourages any agency or instrumentality of the state or political subdivision thereof or non-governmental entity influenced by the same to discriminate against a New York state business enterprise.

(c) In including any additional business enterprises on invitations to bid for the procurement of goods or services, the chief executive officer of the corporation shall not include any foreign business enterprise which has its principal place of business located in a discriminatory jurisdiction contained on the list prepared by the commissioner of economic development pursuant to subdivision six of section one hundred sixty-five of the state finance law, except, however, business enterprises which are New York state business enterprises as defined by this section. The corporation may waive the application of the provisions of this section whenever the chief executive officer of the corporation determines in writing that it is in the best interests of the state to do so. The chief executive officer of the corporation shall deliver each such waiver to the commissioner of economic development.

(d) A corporation shall not enter into a contract with a foreign business enterprise which has its principal place of business located in a discriminatory jurisdiction contained on the list prepared by the commissioner of economic development pursuant to subdivision six of section one hundred sixty-five of the state finance law. The provisions of this section may be waived by the chief executive officer of the corporation if the chief executive officer of the corporation determines in writing that it is in the best interests of the state to do so. The chief executive officer of the corporation shall deliver each such waiver to the commissioner of economic development.

6. Each corporation, as part of the guidelines established pursuant to subdivision three of this section, shall establish policies regarding the preparation of publicly available reports on procurement contracts entered into by such corporation. Such policies shall provide, at the minimum, for the preparation of a report no less frequently than annually, summarizing procurement activity by such corporation for the period of the report, including a listing

of all procurement contracts entered into, all contracts entered into with New York state business enterprises and the subject matter and value thereof, all contracts entered into with certified minority or women-owned business enterprises and the subject matter and value thereof, all referrals made and all penalties imposed pursuant to section three hundred sixteen of the executive law, all contracts entered into with foreign business enterprises, and the subject matter and value thereof, the selection process used to select such contractors, all procurement contracts which were exempt from the publication requirements of article four-C of the economic development law, the basis for any such exemption and the status of existing procurement contracts.

7. Each corporation shall annually prepare and approve a report on procurement contracts which shall include the guidelines, as specified in subdivision three of this section, an explanation of the guidelines and any amendments thereto since the last annual report. Such report on procurement contracts may be a part of any other annual report that the corporation is required to make.

8. (a) Each corporation shall annually submit its report on procurement contracts to the division of the budget and copies thereof to the department of audit and control, the department of economic development, the senate finance committee and the assembly ways and means committee. Such report shall include the total number and total dollar value of contracts awarded to certified minority and women-owned business enterprises pursuant to subparagraph (i) of paragraph (b) of subdivision three of this section, shall distinguish by contract type awards made pursuant to the authority provided under subparagraph (i) of paragraph (b) of subdivision three of this section, and shall additionally specify by contract type awarded pursuant to clause (B) of subparagraph (i) of paragraph (b) of subdivision three of this section and specify the total number, total dollar value and the percentage of the total dollar value of contracts awarded to minority and women-owned business entities and service disabled and veteran-owned business entities for the reporting period, as compared to the prior reporting year. Further, such report shall specify the total number, total dollar value and percentage of contracts that exceed five hundred thousand dollars awarded to minority and women owned business enterprises and service-disabled veteran-owned businesses for the reporting period as compared to the prior reporting period.

(b) Each corporation shall make available to the public copies of its report on procurement contracts upon reasonable request therefor.

9. Nothing contained in this section shall be deemed to alter, affect the validity of, modify the terms of or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this section.

§ 2879-a. Comptroller approval of contracts. 1. Except as set forth in subdivision three of this section, where the comptroller determines pursuant to his or her authority to supervise the accounts of public corporations, that contracts or categories of contracts in excess of one million dollars (a) to be awarded by a state authority to a single source, a sole source or pursuant to any other method of procurement that is not competitive, or (b) which are to be paid in whole or in part from monies appropriated by the state to a state

authority for such contractual expenditure, require supervision in the form of prior review and approval of such contracts, and the comptroller so notifies such authority of such determination, then any such contract entered into subsequent to such notification shall be submitted to the comptroller for his or her approval and shall not be a valid enforceable contract unless it shall first have been approved by the comptroller. Such notification shall identify the process for submission, the categories of contracts at issue and the time period for which such submission is to take place. The comptroller shall promulgate such rules and regulations as may be necessary to carry out his or her responsibilities under this section, including but not limited to the standards for determining which contracts will be subject to his or her review and for approving such contracts.

2. Where the comptroller, pursuant to subdivision one of this section, has notified a state authority that any contract or category of contracts shall be subject to his or her approval, such authority shall include or cause to be included in each such contract a provision informing the other party that such contract is subject to the comptroller's approval pursuant to the comptroller's authority to supervise the accounts of public corporations. If the comptroller has not approved or disapproved any contract subject to his or her approval within ninety days of submission to his or her office, such contract shall become valid and enforceable without such approval.

3. This section shall not apply to: (a) contracts entered into for the issuance of commercial paper or bonded indebtedness, other than contracts with the state providing for the payment of debt service subject to an appropriation; (b) contracts entered into by an entity established under article ten-c of this chapter that are for: (i) projects approved by the department of health or the public health council in accordance with articles twenty-eight, thirty-six or forty of the public health law or article seven of the social services law; (ii) projects approved by the office of mental health, the office of mental retardation and developmental disabilities, or the office of alcoholism and substance abuse services in accordance with articles sixteen, thirty-one, or thirty-two of the mental hygiene law; (iii) services, affiliations or joint ventures for the provision or administration of health care services or scientific research; (iv) payment for direct health care services or goods used in the provision of health care services; or (v) participation in group purchasing arrangements; (c) contracts entered into for the procurement of goods, services or both goods and services made to meet emergencies arising from unforeseen causes or to effect repairs to critical infrastructure that are necessary to avoid a delay in the delivery of critical services that could compromise the public welfare; (d) contracts of purchase or sale of energy, electricity or ancillary services made by an authority on a recognized market for goods, services, or commodities in question in accordance with standard terms and conditions of purchase or sale at a market price; (e) contracts for the purchase, sale or delivery of power or energy, fuel, costs and services ancillary thereto, or financial products related thereto, with a term of less than five years; and (f) contracts for the sale or delivery of power or energy and costs and services ancillary thereto for economic development purposes pursuant to title one of article five of this chapter or article six of the economic development law, provided, however, that the authority shall file copies of any such contract with the comptroller within sixty days after the execution of such contract.

4. The provisions of this section do not grant or diminish any power or right to review contracts beyond or from that which the comptroller may have pursuant to his or her authority to supervise the accounts of public authorities. If any provisions of this section or its application to any person or circumstance is held invalid by a court of last resort, then this section shall be deemed to be invalid in its entirety.

§ 2879-b. Labor peace. 1. As used in this section:

(a) "Contractor" means a company undertaking a covered project, or the operator of a hotel or convention center that is part of a covered project.

(b) "Substantial proprietary interest" means the authority: (i) owns fee title or a leasehold interest in the project of at least forty years; or (ii) provides financing for the project, whether by direct loan or indirectly by a guarantee, subsidy, deposit, credit enhancement or similar method.

(c) "Covered project" means any project in which an authority enters into an agreement for a development after the effective date of this section, where: (i) a hotel is one of the principal functions of the project; (ii) the entity the authority enters into an agreement with or its contractor or subcontractor contracts for the development of such hotel or convention center; (iii) the authority has a substantial proprietary interest in the project, or in the hotel or convention center; and (iv) the hotel or convention center will have more than fifteen employees.

(d) "Labor peace agreement" means an agreement between the contractor and a labor organization that represents a substantial number of hotel or convention center employees in the state, which requires that the labor organization and its members refrain from engaging in labor activity that will disrupt the hotel's operations, including strikes, boycotts, work stoppages, corporate campaigns, picketing or other economic action against the covered project.

(e) "Public authority" shall mean a state public authority.

2. No public authority shall enter into any agreement or contract under which the public authority has a substantial proprietary interest in a covered project unless the agreement or contract requires as a material condition that the contractor or a subcontractor thereof enter into a labor peace agreement with a labor organization that represents hotel employees in the state, for a period of at least five years.

3. Any contractor or subcontractor covered by subdivision two of this section shall incorporate the terms of the labor peace agreement in any contract, subcontract, lease, sublease, operating agreement, concessionaire agreement, franchise agreement or other agreement or instrument giving a right to any person or entity to own or operate a hotel or convention center.

4. Notwithstanding any provision of this section, a public authority may enter into an agreement or contract wherein the public authority has a substantial proprietary interest in a covered project without a contractor entering into a labor peace agreement, if the authority determines that the project would not be able to go forward if a labor peace agreement was required, or the costs of the project to the public authority would be substantially increased by such requirement. Such a determination shall be supported by a

written finding by the public authority setting forth the specific basis for such determination, which may include experience with similar projects, earlier requests for proposal for the same project, or a detailed evaluation of potential bidders. Such written determination shall be included in any public materials provided to any board or agency official in connection with the project and shall be maintained by the authority.

§ 2879-c. Iranian energy sector divestment. 1. As used in this section:

a. "Energy sector" shall have the same meaning as defined in paragraph (a) of subdivision one of section one hundred sixty-five-a of the state finance law.

b. "Financial institution" shall have the same meaning as defined in paragraph (b) of subdivision one of section one hundred sixty-five-a of the state finance law.

c. "Investment" shall have the same meaning as defined in paragraph (c) of subdivision one of section one hundred sixty-five-a of the state finance law.

d. "Iran" shall have the same meaning as defined in paragraph (d) of subdivision one of section one hundred sixty-five-a of the state finance law.

e. "Person" shall have the same meaning as defined in paragraph (e) of subdivision one of section one hundred sixty-five-a of the state finance law.

2. For purposes of this section, a person engages in investment activities in Iran if:

a. The person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

b. The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran.

3. Notwithstanding any other provision of this chapter or any other law to the contrary, no state or local public authority or an interstate or international authority, or subsidiary thereof, shall enter into any contract for work or services performed or to be performed or goods sold or to be sold, with a person that is identified on a list created pursuant to paragraph (b) of subdivision three of section one hundred sixty-five-a of the state finance law as a person engaging in investment activities in Iran as described in subdivision two of this section.

4. Notwithstanding any other provision of this chapter or any other law to the contrary, every contract entered into with a state or local public authority or an interstate or international authority for work or services performed or to be performed or goods sold or to be sold, shall contain the following statement subscribed by and affirmed by the person entering into the contract as true under the penalties of perjury:

a. "By signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury,

that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the state finance law."

b. Notwithstanding paragraph a of this subdivision, the statement of non-investment in the Iranian energy sector may be submitted electronically.

c. A contract shall not be considered nor shall any contract be entered into where the condition set forth in paragraph a of this subdivision has not been complied with; provided, however, that if in any case the person cannot make the foregoing certification, the person shall so state and shall furnish with the contract a signed statement which sets forth in detail the reasons therefor. A public authority may award or enter into a contract with a person who cannot make the certification pursuant to paragraph a of this subdivision on a case-by-case basis if:

(1) The investment activities in Iran were made before the effective date of this section, the investment activities in Iran have not been expanded or renewed after the effective date of this section, and the person has adopted, publicized, and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran; or

(2) The public authority makes a determination that the goods or services are necessary for the public authority to perform its functions and that, absent such an exemption, the public authority would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

§ 2880. Prompt payment. 1. Definitions. As used in this section, the following terms shall have the following meanings unless the context shall indicate another or different meaning or intent:

(a) "Corporation" means every public authority and public benefit corporation a majority of the governing board members of which are either appointed by the governor or serve as members by virtue of their service as an officer of a state department, division, agency, board or bureau, or combination thereof.

(b) "Contract" means an enforceable agreement entered into between a corporation and a contractor.

(c) "Contractor" means any person, partnership, private corporation or association:

(i) selling materials, equipment, or supplies or leasing property or equipment to a corporation;

(ii) constructing, reconstructing, rehabilitating or repairing buildings, highways or other improvements for or on behalf of a corporation; or

(iii) rendering or providing services to a corporation pursuant to a contract.

(d) "Designated payment office" means the office designated by the corporation to which a proper invoice is to be submitted by a contractor.

(e) "Prompt payment" means payment of a debt due and owing by a corporation before interest accrues thereon pursuant to a statement adopted in accordance with this section.

(f) "Proper invoice" means a written request for a contract payment that is submitted by a contractor setting forth the description, price and quantity of goods, property, or services delivered or rendered, in such form and supported by such other substantiating documentation as the corporation may reasonably require.

(g) "Receipt of an invoice" means (i) the date on which a proper invoice is actually received in the designated payment office, or (ii) the date on which the corporation receives the purchased goods, property, or services covered by the proper invoice, whichever is later.

(h) "Set-off" means the reduction by the corporation of a payment due to a contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the contractor to the corporation.

(i) "Statement" means the rules and regulations adopted by a corporation pursuant to subdivision two of this section and any amendments thereto.

2. Statement adoption. Within one hundred twenty days after either the effective date of this section or the beginning of the existence of the respective corporation, whichever is later, each corporation shall promulgate rules and regulations detailing its prompt payment policy.

3. Statement contents. (a) The statement shall include, but not be limited to, a reference to this section and the following for each type or category of contract as determined by the corporation:

(i) a description of the procedure to be followed by a contractor in requesting payment under a contract;

(ii) a schedule setting forth the time in which the corporation will make prompt payment under a contract;

(iii) a declaration that interest will be paid when prompt payment is not made and a statement of the rate at which such interest will accrue;

(iv) a list of the sources of funds available to the corporation to pay an interest penalty on each type or category of contract; and

(v) a list of facts and conditions which in the opinion of the corporation's governing body reasonably justify extension of the date by which contract payment must be made in order for the corporation not to become liable for interest payments in accordance with subdivision seven of this section.

(b) Such facts and conditions may include, but shall not be limited to, the following when:

(i) in accordance with specific statutory or contractual provisions, payment must be preceded by an inspection period or by an audit to determine the resources applied or used by a contractor in fulfilling the terms of the contract;

(ii) the necessary state government appropriation required to authorize payment has yet to be enacted;

(iii) a proper invoice must be examined by the federal government prior to payment; and

(iv) such date by which contract payment must be made is modified in accordance with subdivision eight of this section.

4. Statement amendment. Each corporation shall have the power to amend its statement by promulgating amended rules and regulations.

5. Statement filing. Each corporation shall, within thirty days after the statement's adoption, file a copy of such statement, and amendments thereto, with the state comptroller, the state director of the budget, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

6. Contract incorporation. The statement in effect at the time of creation of a contract is hereby incorporated into and made a part of that contract.

7. Interest eligibility and computation. (a) In order for the corporation not to be liable for the payment of interest, contract payment must be made within thirty calendar days, excluding legal holidays, after the receipt of an invoice for the amount of the contract payment due; except when the contract payment is of the type where the facts and conditions are as defined pursuant to subparagraph (v) of paragraph (a) of subdivision three of this section. Any time taken to satisfy or rectify any of the facts or conditions described in subdivision three (except for subparagraph (iv) of paragraph (b) of subdivision three) of this section shall extend the date by which contract payment must be made in order for the corporation not to become liable for interest payments by an equal period of time.

(b) A corporation, which must process payments through the state department of audit and control, the department of taxation and finance, or some other entity not under the corporation's control, shall not be liable for interest due to the process time taken by such entity.

(c) Notwithstanding any other provision of law to the contrary, interest shall be computed at the rate equal to the overpayment rate set by the commissioner of taxation and finance pursuant to subsection (e) of section one thousand ninety-six of the tax law.

(d) A corporation shall not be liable for payment of interest when such interest as computed pursuant to the provisions of paragraph (c) of this subdivision is less than ten dollars.

8. Each corporation shall have fifteen calendar days after receipt of an invoice by the corporation at its designated payment office to notify the contractor of (a) defects in the delivered goods, property, or services, (b) defects in the invoice, or (c) suspected improprieties of any kind; and the existence of such defects or improprieties shall prevent the commencement of the time period specified in subdivision seven of this section. When a corporation fails to notify a contractor of such defects or suspected improprieties within fifteen calendar days of receiving the invoice, the number of days allowed for payment of the corrected proper invoice will be reduced by the number of days between the fifteenth day and the day that notification was transmitted to the contractor. If the corporation, in such situations, fails to provide reasonable

grounds for its contention that a defect or impropriety exists, the date by which contract payment must be made in order for the corporation not to become liable for interest payments shall be calculated from the date of receipt of an invoice.

9. Notwithstanding any provision of the public service law or any tariffs promulgated pursuant to that law to the contrary, the provisions of this section shall provide the sole basis for determining and making interest payments on invoices submitted by public utilities to corporations.

10. A proper invoice submitted by the contractor shall be required to initiate any payment, except where the contract provides that the contractor will be paid at predetermined intervals without having to submit an invoice for each such scheduled payment and, for the purposes of determining eligibility for payment of interest and subject to the exception and time-to-rectify provisions of subdivisions three and seven of this section, the date by which contract payment must be made in order for the corporation not to become liable for interest payments shall be the payment due date specified in accordance with the contract.

11. Annual report. (a) Each corporation shall annually prepare a report on the scope and implementation of its prompt payment policy which shall include, but not be limited to:

(i) A listing of the types or categories of contracts which the corporation entered into during the twelve month period covered by the report, together with a brief indication of whether each such type or category of contract was subject to the prompt payment requirements promulgated by the corporation and, if not, why not;

(ii) The number and amounts of interest payments made for contracts arranged according to each such type or category;

(iii) The number of interest chargeable days and the total number of days taken to process each late contract payment; and

(iv) A summary of the principal reasons that such late payments occurred.

(b) Within ninety days after the completion of its fiscal year, each corporation shall file copies of the report required by paragraph (a) of this subdivision with the state comptroller, the state director of the budget, the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

12. Public access. (a) Each corporation shall make available to the public, upon a reasonable request therefor, copies of its statement and annual report.

(b) Each contractor doing business with a corporation shall be given a copy of that corporation's statement.

13. Inapplicability of section. The provisions of this section shall not apply to payments due and owing by a corporation:

(a) under the eminent domain procedure law;

(b) as interest allowed on judgments rendered by a court pursuant to any provision of law other than those contained in this section;

(c) to the federal government; to any state agency or its instrumentalities; to any duly constituted unit of local government including, but not limited to, counties, cities, towns, villages, school districts, special districts, or any of their related instrumentalities; to any other public authority or public benefit corporation; or to its employees when acting in, or incidental to, their public employment capacity;

(d) in situations where the corporation exercises a legally authorized set-off against all or part of the payment due the contractor.

14. The provisions of this section shall not apply to the facilities development corporation or the state university construction fund.

15. Judicial review. Any determination made by a corporation pursuant to this section which prevents the commencement of the time in which interest will be paid shall be subject to judicial review in a proceeding pursuant to article seventy-eight of the civil practice law and rules. Such proceedings shall only be commenced in the absence, or upon completion, of other review procedures specified in the contract or by regulation.

16. Court action or other legal processes. (a) Notwithstanding any other provisions of law to the contrary, the liability of a corporation, insofar as incurring an obligation to make an interest payment to a contractor pursuant to the terms of this section is concerned, shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in paragraph (a) of this subdivision, any interest obligation incurred by a corporation after the date specified therein pursuant to any provision of law other than this section shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.

§ 2880-a. Contracts for the financing of local water supply systems. Notwithstanding any other provisions of this title or the provisions of any general, special or local law, any public benefit corporation created pursuant to article five of this chapter which is authorized by law to produce, develop, distribute and sell water, water services, facilities and commodities shall have the power:

1. to enter into contracts, with any entity specified in subdivision two of this section, providing for the financing of the acquisition and construction of improvements to the water supply system or water distribution system of such entity, the terms of which may include, among other provisions, provisions requiring such entity to purchase water only from such public benefit corporation during the term of such contract, which term shall be limited to the lesser of (a) thirty years or (b) the probable useful life of the items for which any bonds are issued by such public benefit corporation to finance the acquisition and construction of improvements to such water supply system or water distribution system, and

2. to issue bonds, in accordance with the applicable provisions of this chapter, to finance the acquisition and construction of improvements to any water supply system or water distribution system owned by any water authority, municipality, county, town, village, water district or Indian tribe to which such public benefit corporation is authorized by law to furnish water.

Title 5 – FUNDS AND ACCOUNTS OF PUBLIC AUTHORITIES

§ 2890. Funds and accounts of public authorities. Notwithstanding any inconsistent provision of this chapter or any other general, special or local law, every authority or commission hereafter created by this chapter is hereby empowered to establish such funds and accounts as it may deem necessary subject to such agreements as such authority or commission shall conclude with the holders of its bonds or notes.

TITLE 5-A - DISPOSITION OF PROPERTY BY PUBLIC AUTHORITIES

§ 2895. Definitions. For the purposes of this title, unless a different meaning is required by the context:

1. "Contracting officer" shall mean the officer or employee of a public authority who shall be appointed by resolution of the board of the public authority to be responsible for the disposition of property.

2. "Dispose" or "disposal" shall mean transfer of title or any other beneficial interest in personal or real property in accordance with section twenty-eight hundred ninety-seven of this title.

3. "Property" shall mean personal property in excess of five thousand dollars in value, real property, and any inchoate or other interest in such property, to the extent that such interest may be conveyed to another person for any purpose, excluding an interest securing a loan or other financial obligation of another party.

§ 2896. Duties of public authorities with respect to the disposal of property. 1. Every authority, as defined in section two of this chapter, shall adopt by resolution comprehensive guidelines which shall (a) detail the public authority's operative policy and instructions regarding the use, awarding, monitoring and reporting of contracts for the disposal of property, and (b) designate a contracting officer who shall be responsible for the public authority's compliance with, and enforcement of, such guidelines. Such guidelines shall be consistent with, and shall require the public authority's contracting activities to comply with this section, the authorities enabling legislation and any other applicable law for the disposal of property, except that such guidelines may be stricter than the provisions of this section, the authorities enabling legislation and any other applicable law for the disposal of property if the public authority determines that additional safeguards are necessary to assure the integrity of its disposition activities. Guidelines approved by the public authority shall be annually reviewed and approved by the governing body of the public authority. On or before the thirty-first day of March in each year, the public authority shall file with the comptroller a copy of the guidelines most recently reviewed and approved by the public authority, including the name of the public authority's designated contracting officer. At the time of filing such guidelines with the comptroller, every public authority shall also post such guidelines on the public authority's internet website.

Guidelines posted on the public authority's internet website shall be maintained on such website at least until the procurement guidelines for the following year are posted on such website.

2. Each public authority shall:

a. maintain adequate inventory controls and accountability systems for all property under its control;

b. periodically inventory such property to determine which property shall be disposed of;

c. produce a written report of such property in accordance with subdivision three of this section;

d. transfer or dispose of such property as promptly as possible in accordance with section twenty-eight hundred ninety-seven of this title.

3. a. Each public authority shall publish, not less frequently than annually, a report listing all real property of the public authority. Such report shall include a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the public authority and the name of the purchaser for all such property sold by the public authority during such period.

b. The public authority shall deliver copies of such report to the comptroller, the director of the budget, the commissioner of general services, the legislature and the authorities budget office.

§ 2897. Disposal of public authority property. 1. Supervision and direction. Except as otherwise provided in this section, the contracting officer designated by each public authority shall have supervision and direction over the disposition of property of such public authority.

2. Custody and control. The custody and control of the property of a public authority, pending its disposition, and the disposal of such property, shall be performed by the public authority in possession thereof or by the commissioner of general services when so authorized under this section.

3. Method of disposition. Subject to section twenty-eight hundred ninety-six of this title, any public authority may dispose of property for not less than the fair market value of such property by sale, exchange, or transfer, for cash, credit, or other property, with or without warranty, and upon such other terms and conditions as the contracting officer deems proper, and it may execute such documents for the transfer of title or other interest in property and take such other action as it deems necessary or proper to dispose of such property under the provisions of this section. Provided, however, that no disposition of real property, or any interest in real property, shall be made unless an appraisal of the value of such property has been made by an independent appraiser and included in the record of the transaction, and, provided further, that no disposition of any other property, which because of its unique nature or the unique circumstances of the proposed transaction is not readily valued by reference to an active market for similar property, shall be made without a similar appraisal.

4. Sales by the commissioner of general services. When it shall be deemed advantageous to the state, any public authority may enter into an agreement with the commissioner of general services where under such commissioner may dispose of property of such public authority under terms and conditions agreed to by the public authority and the commissioner of general services. In disposing of any such property of a public authority, the commissioner of general services shall be bound by the terms of this title and references to the contracting officer shall be deemed to refer to such commissioner.

5. Validity of deed, bill of sale, lease, or other instrument. A deed, bill of sale, lease, or other instrument executed by or on behalf of any public authority, purporting to transfer title or any other interest in property of a public authority under this title shall be conclusive evidence of compliance with the provisions of this title insofar as concerns title or other interest of any bona fide grantee or transferee who has given valuable consideration for such title or other interest and has not received actual or constructive notice of lack of such compliance prior to the closing.

6. Bids for disposal; advertising; procedure; disposal by negotiation; explanatory statement. a. All disposals or contracts for disposal of property of a public authority made or authorized by the contracting officer shall be made after publicly advertising for bids except as provided in paragraphs c and f of this subdivision.

b. Whenever public advertising for bids is required under paragraph a of this subdivision:

(i) the advertisement for bids shall be made at such time prior to the disposal or contract, through such methods, and on such terms and conditions as shall permit full and free competition consistent with the value and nature of the property;

(ii) all bids shall be publicly disclosed at the time and place stated in the advertisement; and

(iii) the award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, will be most advantageous to the state, price and other factors considered; provided, that all bids may be rejected when it is in the public interest to do so.

c. Disposals and contracts for disposal of property may be negotiated or made by public auction without regard to paragraphs a and b of this subdivision but subject to obtaining such competition as is feasible under the circumstances, if:

(i) the personal property involved has qualities separate from the utilitarian purpose of such property, such as artistic quality, antiquity, historical significance, rarity, or other quality of similar effect, that would tend to increase its value, or if the personal property is to be sold in such quantity that, if it were disposed of under paragraphs a and b of this subdivision, would adversely affect the state or local market for such property, and the estimated fair market value of such property and other satisfactory terms of disposal can be obtained by negotiation;

(ii) the fair market value of the property does not exceed fifteen thousand dollars;

(iii) bid prices after advertising therefor are not reasonable, either as to all or some part of the property, or have not been independently arrived at in open competition;

(iv) the disposal will be to the state or any political subdivision, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(v) under those circumstances permitted by subdivision seven of this section; or

(vi) such action is otherwise authorized by law.

d. (i) An explanatory statement shall be prepared of the circumstances of each disposal by negotiation of:

(A) any personal property which has an estimated fair market value in excess of fifteen thousand dollars;

(B) any real property that has an estimated fair market value in excess of one hundred thousand dollars, except that any real property disposed of by lease or exchange shall only be subject to clauses (C) and (D) of this subparagraph;

(C) any real property disposed of by lease, if the estimated annual rent over the term of the lease is in excess of fifteen thousand dollars;

(D) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

(ii) Each such statement shall be transmitted to the persons entitled to receive copies of the report required under section twenty-eight hundred ninety-six of this title not less than ninety days in advance of such disposal, and a copy thereof shall be preserved in the files of the public authority making such disposal.

e. Disposals and contracts for disposal of real property by the canal corporation may be made by negotiated sale rather than public auction provided that all of the following conditions have been satisfied:

(i) The canal corporation has determined that: such real property is no longer necessary or useful to the purposes of the canal corporation; disposal of such real property complies with all applicable provisions of the canal law; and disposal of such real property is in the best interest of the canal corporation;

(ii) An appraisal of the fair market value of such property has been made by an independent appraiser and included in the record of the transaction;

(iii) The fair market value of such real property is greater than fifteen thousand dollars but not greater than seventy-five thousand dollars;

(iv) Such real property was improved prior to April first, nineteen hundred ninety-two under a municipal permit or a permit issued pursuant to section one

hundred of the canal law, thereby creating an encroachment on canal corporation real property;

(v) The purchaser of such real property is, or will be, the owner of the improvement that either fully or partially encroaches on canal corporation real property; and

(vi) The consideration paid for such real property will be not less than the fair market value of the real property exclusive of the value, fair market or otherwise, of the encroaching improvements.

f. Notwithstanding anything to the contrary in this section, disposals for use of the thruway authority's fiber optic system, or any part thereof, may be made through agreements based on set fees that shall not require public auction, provided that:

i. the thruway authority has determined the disposal of such property complies with all applicable provisions of this chapter;

ii. the thruway authority has determined that disposal of such property is in the best interest of the thruway authority;

iii. the set fees established by the thruway authority for use of the fiber optic system, or part thereof, shall be based on an independent appraisal of the fair market value of the property; and

iv. any public authority, state agency, municipality, not-for-profit hospital organized under section forty-three hundred one of the insurance law, public library, or institution of higher education located in New York state shall be required only to pay the actual cost of providing for use of the fiber optic system, but not exceeding the fair market value determined pursuant to subparagraph (iii) of this paragraph. For purposes of this paragraph, "public authority" shall refer to entities defined in section two of the public authorities law. For purposes of this paragraph, "institution of higher education" shall refer to entities as defined in subdivisions two and three of section six hundred one of the education law.

Disposals of the fiber optic system, or any part thereof, through agreements based on set fees shall not require the explanatory statements required by this section. Any disposal of property, contract for disposal of property or agreement made pursuant to this paragraph shall not be deemed valid and enforceable unless it shall first have been approved by both the comptroller and the attorney general.

7. Disposal of property for less than fair market value. a. No asset owned, leased or otherwise in the control of a public authority may be sold, leased, or otherwise alienated for less than its fair market value except if:

(i) the transferee is a government or other public entity, and the terms and conditions of the transfer require that the ownership and use of the asset will remain with the government or any other public entity;

(ii) the purpose of the transfer is within the purpose, mission or governing statute of the public authority; or

(iii) in the event a public authority seeks to transfer an asset for less than its fair market value to other than a governmental entity, which disposal would not be consistent with the authority's mission, purpose or governing statutes, such authority shall provide written notification thereof to the governor, the speaker of the assembly, and the temporary president of the senate, and such proposed transfer shall be subject to denial by the governor, the senate, or the assembly. Denial by the governor shall take the form of a signed certification by the governor. Denial by either house of the legislature shall take the form of a resolution by such house. The governor and each house of the legislature shall take any such action within sixty days of receiving notification of such proposed transfer during the months of January through June, provided that if the legislature receives notification of a proposed transfer during the months of July through December, the legislature may take any such action within sixty days of January first of the following year. If no such resolution or certification is performed within sixty days of such notification of the proposed transfer to the governor, senate, and assembly, the public authority may effectuate such transfer. Provided, however, that with respect to a below market transfer by a local authority that is not within the purpose, mission or governing statute of the local authority, if the governing statute provides for the approval of such transfer by the executive and legislative branches of the political subdivision in which such local authority resides, and the transfer is of property obtained by the authority from that political subdivision, then such approval shall be sufficient to permit the transfer.

b. In the event a below fair market value asset transfer is proposed, the following information must be provided to the authority board and the public:

(i) a full description of the asset;

(ii) an appraisal of the fair market value of the asset and any other information establishing the fair market value sought by the board;

(iii) a description of the purpose of the transfer, and a reasonable statement of the kind and amount of the benefit to the public resulting from the transfer, including but not limited to the kind, number, location, wages or salaries of jobs created or preserved as required by the transfer, the benefits, if any, to the communities in which the asset is situated as are required by the transfer;

(iv) a statement of the value to be received compared to the fair market value;

(v) the names of any private parties participating in the transfer, and if different than the statement required by subparagraph (iv) of this paragraph, a statement of the value to the private party; and

(vi) the names of other private parties who have made an offer for such asset, the value offered, and the purpose for which the asset was sought to be used.

c. Before approving the disposal of any property for less than fair market value, the board of an authority shall consider the information described in paragraph b of this subdivision and make a written determination that there is

no reasonable alternative to the proposed below-market transfer that would achieve the same purpose of such transfer.

TITLE 6 - EMINENT DOMAIN TAKING; PROPERTY OF PUBLIC BENEFIT CORPORATION

§ 2900. Compensation; eminent domain taking. When property of a public benefit corporation is taken in the exercise of the power of eminent domain for a purpose substantially different from that for which it is held by such public benefit corporation, just compensation to the public benefit corporation shall be made in the same manner, to the same extent and subject to the same limitations as though it were private property.

TITLE 7 - INVESTMENTS OF PUBLIC AUTHORITIES

§ 2925. Investments of funds by public authorities and public benefit corporations; general provisions. 1. Every public authority and every public benefit corporation whether or not such corporation is otherwise governed by this chapter, (such entities to be hereinafter in this title referred to as "corporation") shall by resolution adopt comprehensive investment guidelines which detail the corporation's operative policy and instructions to officers and staff regarding the investing, monitoring and reporting of funds of the corporation. The investment guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

2. Funds of the corporation, for purposes of this title, shall consist of all moneys and other financial resources available for investment by the corporation on its own behalf or on behalf of any other entity or individual.

3. The investment guidelines approved by the corporation shall include, but not be limited to the following:

(a) A detailed list of the permitted investments of the corporation, which shall be consistent with the appropriate provisions of law relating to the corporation and any additional requirements pursuant to any contract with bondholders and noteholders.

(b) Procedures and provisions to fully secure the corporation's financial interest in investments; provided that the guidelines may include a description of the circumstances under which the corporation's financial interest in investments may be less than fully secured.

(c) A requirement that the corporation shall enter into written contracts pursuant to which investments are made, unless the corporation shall by resolution determine that a written contract is not practical or that there is not a regular business practice of written contracts with respect to a specific investment or transaction, in which case the corporation shall adopt procedures covering such investment or transaction. Such contracts and procedures shall include provisions:

(i) deemed necessary and sufficient to secure in a satisfactory manner the corporation's financial interest in each investment;

(ii) covering the use, type and amount of collateral or insurance for each investment;

(iii) establishing a method for valuation of collateral, and procedures for monitoring the valuation of such collateral on a regular basis;

(iv) for the monitoring, control, deposit and retention of investments and collateral which shall include, in the case of a repurchase agreement, a requirement that the obligations purchased be physically delivered for retention to the corporation or its agent (which shall not be an agent of the party with whom the corporation enters into such repurchase agreement), unless such obligations are issued in book-entry form, in which case the corporation shall take such other action as may be necessary to obtain title to or a perfected security interest in such obligations.

(d) Standards for the diversification of investments, including diversification with respect to types of investments and firms with which the corporation transacts business.

(e) Standards for the qualification of investment bankers, brokers, agents, dealers and other investment advisers and agents which transact business with the corporation, such as criteria covering quality, reliability, experience, capitalization, size and any other factors that, in the judgment of the corporation, make a firm qualified to transact business with the corporation.

(f) Provisions for reporting on the investments of the corporation, including provisions for an annual independent audit of all investments, the results of which shall be available to the board at the time the annual review and approval of investment guidelines is conducted by the corporation.

4. Each corporation shall have the power from time to time to amend such investment guidelines in accordance with the provisions of this title.

5. Each corporation shall direct the preparation and filing with the board of quarterly reports, or reports covering such other period as may be approved by the corporation, from a designated officer or employee regarding any new investments, the inventory of existing investments, and the selection of investment bankers, brokers, agents, dealers or auditors.

6. Each corporation shall annually prepare and approve an investment report which shall include the investment guidelines, as specified in subdivision three of this section, amendments to such guidelines since the last investment report, an explanation of the investment guidelines and amendments, the results of the annual independent audit, the investment income record of the corporation and a list of the total fees, commissions or other charges paid to each investment banker, broker, agent, dealer and adviser rendering investment associated services to the corporation since the last investment report. Such investment report may be a part of any other annual report that the corporation is required to make.

7. (a) Each corporation, a majority of the members of which consist of persons appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, shall annually submit its investment report to the division of the budget and copies thereof to the department of audit and control, the senate finance committee and the assembly ways and means committee.

(b) Each corporation, other than a corporation included under paragraph (a) of this subdivision, shall annually submit its investment report to the chief executive officer and chief fiscal officer of each municipality for the benefit of which it was created and to the department of audit and control.

(c) Each corporation shall make available to the public copies of its investment report upon reasonable request therefor.

8. Nothing contained in this section shall be deemed to alter, affect the validity of, modify the terms of or impair any contract, agreement or investment of funds made or entered into in violation of, or without compliance with, the provisions of this title.

§ 2926. Interest rate exchange or similar agreements for court facilities and combined occupancy structures and health facilities. 1. In connection with the issuance of bonds, notes, or other obligations, or in connection with such bonds, notes, or other obligations already outstanding, for court facilities and combined occupancy structures pursuant to section sixteen hundred eighty-b of this chapter, and health facilities pursuant to paragraph (b) of subdivision one of section eight of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three, the dormitory authority shall have the power to:

(a) enter into interest rate exchange or similar agreements with any person under such terms and conditions as the dormitory authority may determine, including provisions as to default or early termination and indemnification by the dormitory authority or any other party thereto for loss of benefits as a result thereof; and

(b) procure insurance, letters of credit or other credit enhancement with respect to agreements described in paragraph (a) of this subdivision; and

(c) provide security for the payment or performance of its obligations with respect to agreements described in paragraph (a) of this subdivision from such sources and with the same effect as authorized by applicable law with respect to security for its bonds, notes or other obligations; and

(d) modify, amend, replace, or enter into new agreements, for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty downgrade, default, or other potential economic loss.

2. Any interest rate exchange or similar agreement entered into pursuant to subdivision one of this section shall be subject to the following limitations:

(a) any such agreement shall be in the form of a written contract with a counterparty to provide for an exchange of payments based upon interest rates, and shall be for exchanges in currency of the United States of America only; and

(b) the counterparty thereto shall have credit ratings from at least two nationally recognized statistical rating agencies that are within the three highest investment grade categories, or the payment obligations of the counterparty shall be unconditionally guaranteed by an entity with such credit ratings; and

(c) the written contract shall require that, should the rating of the counterparty, if its payment obligations are not unconditionally guaranteed by another entity, or should the rating of the entity unconditionally guaranteeing the payment obligations of the counterparty, if so secured, fall below the rating required by paragraph (b) of this subdivision, that the obligations of such counterparty shall be fully and continuously collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America, with a net market value of at least one hundred two percent of the net market value of the contract to the dormitory authority, and such collateral shall be deposited with the dormitory authority or an agent thereof; and

(d) the total notional amount of such interest rate exchange or similar agreements entered into by the dormitory authority shall not exceed an amount equal to twenty per centum of the total amount of bonds, notes or other obligations outstanding or to be issued on behalf of a participating municipality pursuant to section sixteen hundred eighty-b of this chapter; provided, however, that such total notional amount shall not include the notional amount of interest rate exchange or similar agreements entered into for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty downgrade, default, or other potential economic loss; and

(e) the total notional amount of such interest rate exchange or similar agreements entered into by the dormitory authority shall not exceed an amount equal to twenty per centum of the total amount of bonds, notes or other obligations outstanding or to be issued on behalf of a participating municipality pursuant to paragraph (b) of subdivision one of section eight of section one of chapter three hundred ninety-two of the laws of nineteen hundred seventy-three; provided, however, that such total notional amount shall not include the notional amount of interest rate exchange or similar agreements entered into for the purpose of reducing or eliminating a situation of risk or exposure under an existing agreement, including, but not limited to a counterparty downgrade, default, or other potential economic loss.

3. (a) Prior to authorizing the approval of any contract for interest rate exchange or similar agreement pursuant to subdivision one of this section, the board of the dormitory authority shall adopt written guidelines addressing the following:

(i) the conditions under which such contracts can be entered into;

(ii) the methods by which such contracts are to be solicited and procured;

(iii) the form and content such contracts shall take;

(iv) the aspects of risk exposure associated with such contracts;

(v) standards and procedures for counterparty selection;

(vi) the procurement of credit enhancement, liquidity facilities, or the setting aside of reserves in connection with such contracts;

(vii) collateralization or other requirements for securing the financial interest in such contracts;

(viii) the methods to be used to reflect such contracts in the dormitory authority's financial statements;

(ix) financial monitoring and periodic assessment of such contracts by the dormitory authority; and

(x) such other matters relating thereto as the board of the dormitory authority shall deem necessary and proper.

(b) The dormitory authority shall issue a report to the director of the budget, the chairpersons of the senate finance committee and the assembly ways and means committee, and the state comptroller, on or before March first in any state fiscal year in which it enters into or continues to be a party to a contract for interest rate exchange or similar agreement. Such report shall list all such contracts entered into pursuant to this section, and shall include, but not be limited to, the following information for each such contract, as applicable:

(i) a description of the contract, including a summary of the terms and conditions thereof and the method of procurement;

(ii) any amounts which were required to be paid and received, and any amounts which actually were paid and received thereunder;

(iii) any credit enhancement, liquidity facility or reserves associated therewith including an accounting of all costs and expenses incurred, whether or not in conjunction with the procurement of credit enhancement or liquidity facilities;

(iv) a description of each counterparty;

(v) an assessment of the counterparty risk, termination risk, and other risks associated therewith.

4. The dormitory authority shall not enter into any interest rate exchange or similar agreement pursuant to this section unless the lease, sublease, or other agreement between the participating municipality and the dormitory authority:

(a) expressly authorizes the dormitory authority to enter into such agreements with respect to bonds, notes or other obligations outstanding or to be issued in connection with court facilities and combined occupancy structures or health facilities for that participating municipality; and

(b) further obligates the participating municipality to pay to the dormitory authority any and all amounts payable by the authority under, or as a result of, such interest rate exchange or similar agreement.

§ 2927. Investment of funds by public authorities and public benefit corporations in deposits insured by the federal deposit insurance corporation.

Notwithstanding any inconsistent provision of this chapter or any other general, special or local law, every corporation whether or not such corporation is otherwise governed by this chapter, may temporarily invest moneys not required for immediate expenditure in accordance with the following conditions:

1. the moneys are invested through a bank or trust company located and authorized to do business in this state selected by the corporation;

2. the selected bank or trust company arranges for the redeposit of the moneys in certificates of deposit and other deposit accounts in one or more banking institutions, as defined in section nine-r of the banking law, for the account of the corporation;

3. the full amount of principal and accrued interest of each such deposit is insured by the federal deposit insurance corporation;

4. the selected bank or trust company in this state acts as custodian for the corporation with respect to the funds redeposited pursuant to this section; and

5. at the same time that the corporation's moneys are redeposited pursuant to this section, the selected bank or trust company in this state receives an amount of deposits from customers of other financial institutions equal to or greater than the amount of the moneys invested by the corporation through the selected bank or trust company in this state.

TITLE 8 - INTERNAL CONTROL RESPONSIBILITIES OF PUBLIC AUTHORITIES

§ 2930. Definitions. For the purposes of this title, the following terms shall have the following meanings:

1. "Internal control". A process that integrates the activities, plans, attitudes, policies, systems, resources and efforts of the people of an organization working together, and that is designed to provide reasonable assurance that the organization will achieve its objectives and mission. The objectives of an internal control system include, but are not limited to: the safeguarding of assets; checking the accuracy and reliability of accounting data and financial reporting; promoting the effectiveness and efficiency of operations; ensuring compliance with applicable laws and regulations; and encouraging adherence to prescribed managerial policies. Internal control review processes are used periodically to evaluate the ongoing internal control system and to assess and monitor the implementation of necessary corrective actions.

2. "Internal audit". An appraisal activity established by the management of an organization for the review of operations as a means of assuring conformity with management policies and the effectiveness of internal control, and conducted in conformance with generally accepted standards for internal auditing.

3. "Covered authority". Any public authority or public benefit corporation, other than a bi-state authority or public benefit corporation, a majority of whose members are appointed by the governor or serve as members by virtue of holding state offices to which they were appointed by the governor, or any combination thereof.

§ 2931. Internal control responsibilities. The governing board of each covered authority shall: 1. establish and maintain for the authority guidelines for a system of internal control that are in accordance with this article and internal control standards;

2. establish and maintain for the authority a system of internal control and a program of internal control review. The program of internal review shall be

designed to identify internal control weaknesses, identify actions that are needed to correct these weaknesses, monitor the implementation of necessary corrective actions and periodically assess the adequacy of the authority's ongoing internal controls;

3. make available to each member, officer and employee a clear and concise statement of the generally applicable managerial policies and standards with which he or she is expected to comply. Such statement shall emphasize the importance of effective internal control to the authority and the responsibility of each member, officer and employee for effective internal control;

4. designate an internal control officer, who shall report to the head of the authority, to implement and review the internal control responsibilities established pursuant to this section; and

5. implement education and training efforts to ensure that members, officers and employees have achieved adequate awareness and understanding of internal control standards and, as appropriate, evaluation techniques.

§ 2932. Internal audit responsibilities. 1. The governing board of each covered authority or its designee shall determine, and periodically review the determination of, whether an internal audit function within the covered authority is required. Establishment of such function shall be based upon an evaluation of exposure to risk, costs and benefits of implementation, and any other factors that are determined to be relevant. In the event it is determined that an internal audit function is required, the governing board of each covered authority shall establish an internal audit function which operates in accordance with generally accepted professional standards for internal auditing. Any such internal audit function shall be directed by an internal audit director who shall report directly to the governing board of the authority. Internal audit director appointments shall be based on appropriate internal auditing credentials of the proposed appointee, consistent with generally accepted standards for internal auditing, including internal auditing education and experience. The internal audit function shall evaluate the authority's internal controls and operations, identify internal control weaknesses that have not been corrected and make recommendations to correct these weaknesses.

2. In the event the governing board does not establish an internal audit function pursuant to subdivision one of this section it shall nevertheless establish and maintain the program of internal control review required by section twenty-nine hundred thirty-one of this title.

TITLE 9 - INTEREST RATES ON PUBLIC AUTHORITY BONDS AND NOTES

§ 2960. Interest rates. Notwithstanding any other provisions of this chapter or the provisions of any other general, special or local law, any public authority may agree or contract to pay interest on its certificates, notes or bonds, including those now outstanding, at such rate or rates, without limit, as may be necessary for an authority to sell such notes or bonds.

TITLE 10 - STATE GOVERNMENTAL COST RECOVERY SYSTEM

§ 2975. Recovery of state governmental costs from public authorities and public benefit corporations. 1. Notwithstanding any other provision of law to the contrary, every public authority and every public benefit corporation created by or pursuant to New York state law at least three of whose members are appointed

by the governor, whether such authority or corporation is otherwise governed by this chapter (such entities, as so constituted, to be hereafter in this title referred to as "public benefit corporations"), shall reimburse to New York state an allocable share of state governmental costs attributable to the provision of services to public benefit corporations, as determined herein. The payment of such costs by public benefit corporations is a valid and proper purpose for which available authority funds may be applied.

2. (a) Annually the director of the division of the budget of the state of New York (such person to be hereafter in this title referred to as the "director of the budget"), in consultation with the state comptroller, shall determine the total amount of expenses incurred or to be incurred during the state's fiscal year in connection with the provision of central governmental services to public benefit corporations. Such expenses, in addition to the direct costs of personal service, shall include indirect costs of employee benefits, maintenance and operation, state equipment and facilities, rental for space occupied in state leased facilities or the fair market rental value of space occupied in state owned facilities, and contractual services, all as attributable to the provision of otherwise unreimbursed services to public benefit corporations by the New York state department of audit and control, department of law, executive chamber, division of the budget, the legislature, and such agencies, boards or commissions as the director of the budget determines provide such services to public benefit corporations.

(b) On or before November first, two thousand three and on or before November first of each year thereafter, the director of the budget shall determine the amount owed under this section by each public benefit corporation. The director of the budget may reduce, in whole or part, the amount of such assessment if the payment thereof would necessitate a state appropriation for the purpose, or would otherwise impose an extraordinary hardship upon the affected public benefit corporation. The aggregate amount assessed under this section in any given state fiscal year may not exceed sixty-five million dollars.

3. The state treasurer shall impose and collect such assessments, which shall be paid no later than March thirty-first following the imposition of the assessments, and pay the same into the state treasury to the credit of the general fund.

3-a. A direct portion of these funds shall be allocated to fund the authorities budget office established by section four of this chapter.

4. The provisions of subdivisions two and three of this section shall not apply to any public benefit corporation which enters into a contract or agreement with the director of the budget which otherwise provides for cost recovery to the state and includes a provision that, in accordance with this subdivision, subdivisions two and three of this section shall not apply to such public benefit corporation. The circumstances for the entry into such contract or agreement may include, but shall not be limited to, the following:

(a) where such contract or agreement is for an amount which equals or exceeds the amount of the assessment provided by subdivision two of this section; or

(b) where the payment of all or a portion of the assessment provided by subdivision two of this section would necessitate, in the judgment of the director of the budget, an appropriation therefor by the state.

5. On or before June first, nineteen hundred ninety, and annually on or before June first, the director of the budget shall report to the respective chairpersons of the assembly ways and means committee and senate finance committee the amount of cost recovery obtained pursuant to this title and all contracts and agreements entered into pursuant to subdivision four of this section for the state fiscal year ending on the preceding March thirty-first.

§ 2976. Cost recovery on the issuance of certain bonds. 1. Notwithstanding any other law to the contrary, public benefit corporations (which for purposes of this section shall include industrial development agencies created pursuant to title one of article eighteen-A of the general municipal law or any other provision of law and the New York city housing development corporation created pursuant to article twelve of the private housing finance law) which issue bonds, notes or other obligations shall pay to the state a bond issuance charge upon the issuance of such bonds in an amount determined pursuant to subdivision two of this section. Such charge shall be paid to the state department of taxation and finance, upon forms prescribed therefor, no later than fifteen days from the end of the month within which such bonds are issued.

2. The bond issuance charge shall be computed by multiplying the principal amount of bonds issued by the percentage set forth in the schedule below, provided that: (a) the charge applicable to the principal amount of single family mortgage revenue bonds shall be seven one-hundredths of one percent; (b) the issuance of bonds shall not include the remarketing of bonds; and (c) the issuance of bonds shall not include the refunding of bonds, notes or other obligations.

SCHEDULE

| Principal Amount of Bonds Issued | Percentage Charge |
|---|---|
| a. $20,000,000 or less | 0% |
| b. More than $20,000,000 | .35% |

3. The provisions of subdivisions one and two of this section shall not apply to any public benefit corporation which enters into a contract or agreement with the director of the budget which otherwise provides for cost recovery to the state under this section and includes a provision that, in accordance with this subdivision, subdivisions one and two of this section shall not apply to such public benefit corporation. The circumstances for the entry into such contract or agreement may include, but shall not be limited to, those where the amount to be paid thereunder equals or exceeds the amount of the bond issuance charge which would otherwise be applicable pursuant to subdivisions one and two of this section.

4. The provisions of subdivisions one and two of this section shall not apply to recovery act bonds issued by the state of New York municipal bond bank agency in connection with local American Recovery and Reinvestment Act pursuant to section two thousand four hundred thirty-six-b of this chapter.

§ 2977. Applicability of title. 1. The provisions of this title shall not be construed to, nor shall they be implemented in such a manner as to:

(a) require the application of monies pledged to the security of bonds, notes or other obligations in violation of applicable bond covenants; or

(b) otherwise impair the rights of bondholders of the public benefit corporations affected by this title.

2. To the extent precluded by interstate or international compact which creates any public benefit corporation, the provisions of this title shall not apply to any such public benefit corporation until the passage of legislation, by the other party to such compact, which validates or has the same effect as this title.

TITLE 11 – WRONGFUL DEATH ACTIONS

§ 2980. Wrongful death; notice of claim. No wrongful death action against a public authority or public benefit corporation shall be commenced unless a notice of claim has been served on the authority or corporation in accordance with the provisions of section fifty-e of the general municipal law.

§ 2981. Wrongful death; limitation period. A wrongful death action against a public authority or public benefit corporation shall be commenced within two years of the happening of the death.

§ 2982. Scope of title. Except where such an action is statutorily required to be brought only in the court of claims, this title shall be applicable to all wrongful death actions brought against a public authority or public benefit corporation, notwithstanding any inconsistent provisions of law, general, special or local, or any limitation contained in the provisions of any city charter.

§ 2985. Owner liability for failure of operator to comply with toll collection regulations. 1. Notwithstanding any other provision of law, every public authority which operates a toll highway bridge and/or tunnel facility is hereby authorized and empowered to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with the toll collection regulations of such public authority in accordance with the provisions of this section.

2. The owner of a vehicle shall be liable for a civil penalty imposed pursuant to this section if such vehicle was used or operated with the permission of the owner, express or implied, in violation of toll collection regulations, and such violation is evidenced by information obtained from a photo-monitoring system, provided, however, that no owner of a vehicle shall be liable for a penalty imposed pursuant to this section where the operator of such vehicle has been convicted of a violation of toll collection regulations for the same incident.

3. For purposes of this section, the term "owner" shall mean any person, corporation, partnership, firm, agency, association, lessor or organization who, at the time of the violation and with respect to the vehicle identified in the notice of liability: (a) is the beneficial or equitable owner of such vehicle; or (b) has title to such vehicle; or (c) is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or (d) subject to the limitations set forth in subdivision ten of this section, uses such vehicle in its vehicle renting and/or leasing business; and includes (e) a person entitled to the use and possession of a vehicle subject to a security interest in another person. For purposes of this section, the term "photo-monitoring system" shall mean a vehicle sensor installed to work in conjunction with a toll collection facility which automatically produces one or more photographs, one or more microphotographs, a videotape or other recorded images of each vehicle at the time it is used or operated in violation of toll

collection regulations. For purposes of this section, the term "toll collection regulations" shall mean: those rules and regulations of a public authority providing for and requiring the payment of tolls and/or charges prescribed by such public authority for the use of bridges, tunnels or highways under its jurisdiction or those rules and regulations of a public authority making it unlawful to refuse to pay or to evade or to attempt to evade the payment of all or part of any toll and/or charge for the use of bridges, tunnels or highways under the jurisdiction of such public authority. For purposes of this section, the term "vehicle" shall mean every device in, upon or by which a person or property is or may be transported or drawn upon a highway, except devices used exclusively upon stationary rails or tracks.

4. A certificate, sworn to or affirmed by an agent of the public authority which charged that the violation occurred, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape or other recorded images produced by a photo-monitoring system shall be prima facie evidence of the facts contained therein and shall be admissible in any proceeding charging a violation of toll collection regulations, provided that any photographs, microphotographs, videotape or other recorded images evidencing such a violation shall be available for inspection and admission into evidence in any proceeding to adjudicate the liability for such violation.

5. An owner found liable for a violation of toll collection regulations pursuant to this section shall for a first violation thereof be liable for a monetary penalty not to exceed fifty dollars or two times the toll evaded whichever is greater; for a second violation thereof both within eighteen months be liable for a monetary penalty not to exceed one hundred dollars or five times the toll evaded whichever is greater; for a third or subsequent violation thereof all within eighteen months be liable for a monetary penalty not to exceed one hundred fifty dollars or ten times the toll evaded whichever is greater.

6. An imposition of liability pursuant to this section shall be based upon a preponderance of evidence as submitted. An imposition of liability pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the motor vehicle operating record, furnished pursuant to section three hundred fifty-four of the vehicle and traffic law, of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage.

7. (a) A notice of liability shall be sent by first class mail to each person alleged to be liable as an owner for a violation of toll collection regulations. Such notice shall be mailed no later than thirty days after the alleged violation. Personal delivery on the owner shall not be required. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the mailing of the notice.

(b) A notice of liability shall contain the name and address of the person alleged to be liable as an owner for a violation of toll collection regulations pursuant to this section, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation and the identification number of the photo-monitoring system which recorded the violation or other document locator number.

(c) The notice of liability shall contain information advising the person charged of the manner and the time in which he may contest the liability alleged in the notice. Such notice of liability shall also contain a warning to advise

the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

(d) The notice of liability shall be prepared and mailed by the public authority having jurisdiction over the toll facility where the violation of toll collection regulations occurred.

8. (a) Adjudication of the liability imposed upon owners by this section shall be by the entity having jurisdiction over violations of the rules and regulations of the public authority serving the notice of liability or where authorized by an administrative tribunal and all violations shall be heard and determined in the county in which the violation is alleged to have occurred, or in New York city and upon the consent of both parties, in any county within New York city in which the public authority operates or maintains a facility, and in the same manner as charges of other regulatory violations of such public authority or pursuant to the rules and regulations of such administrative tribunal as the case may be. (b) Upon exhaustion of remedies pursuant to this section or section twenty-nine hundred eighty-five-a of this title, as applicable, the New York state bridge authority, thruway authority, triborough bridge and tunnel authority, metropolitan transportation authority, and port authority of New York and New Jersey, a bi-state agency created by compact set forth in chapter one hundred fifty-four of the laws of nineteen hundred twenty-one, shall have the power to enter judgments for unpaid liabilities, provided that such unpaid liabilities include the failure to pay tolls, fees, or other charges or the failure to have such tolls, fees or other charges dismissed or transferred in response to three or more notices of violation issued within a five year period charging the registrant of a motor vehicle with a violation of toll collection regulations, and to enforce such judgments, without court proceedings, in the same manner as the enforcement of money judgments in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within the state of New York, after a period of notice pursuant to paragraph (c) of this subdivision. The applicable tolling authority shall not enforce such judgments until thirty days have elapsed from issuing a notice pursuant to paragraph (c) of this subdivision. (c) Prior to entering judgments for unpaid liabilities pursuant to paragraph (b) of this subdivision, the applicable tolling authority shall notify the person subject to such judgment, by first class mail, that such person is at risk of entry of a judgment against them if they fail to pay such unpaid liabilities. The form and content of such notice shall be prescribed by the applicable tolling authority, and shall contain a warning to advise the person that failure to pay the applicable unpaid liabilities within a period of not less than thirty days of such notice will result in the enforcement of a judgment against them, and shall further contain information about the process to dispute such liabilities, consistent with this section or section twenty-nine hundred eighty-five-a of this title, as applicable.

9. If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. If an owner receives a notice of liability pursuant to this section for any time period during which the vehicle was stolen, but not as yet reported to the police as having been stolen, it shall be a valid defense

to an allegation of liability for a violation of toll collection regulations pursuant to this section that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court or other entity having jurisdiction.

10. An owner who is a lessor of a vehicle to which a notice of liability was issued pursuant to subdivision seven of this section shall not be liable for the violation of the toll collection regulation provided that he or she sends to the public authority serving the notice of liability and to the court or other entity having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the original notice of liability. Failure to send such information within such thirty day time period shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section and shall be subject to liability for the violation of toll collection regulations, provided that the public authority mails a notice of liability to the lessee within ten days after the court, or other entity having jurisdiction, deems the lessee to be the owner. For purposes of this subdivision the term "lessor" shall mean any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or otherwise wherein the said lessee has the exclusive use of said vehicle for any period of time. For purposes of this subdivision, the term "lessee" shall mean any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of one or more vehicles and has exclusive use thereof for any period of time.

11. Except as provided in subdivision ten of this section, if a person receives a notice of liability pursuant to this section it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the individual who received the notice of liability pursuant to this section was not the owner of the vehicle at the time the violation occurred. If the owner liable for a violation of toll collection regulations pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

12. "Electronic toll collection system" shall mean a system of collecting tolls or charges which is capable of charging an account holder the appropriate toll or charge by transmission of information from an electronic device on a motor vehicle to the toll lane, which information is used to charge the account the appropriate toll or charge. In adopting procedures for the preparation and mailing of a notice of liability, the public authority having jurisdiction over the toll facility shall adopt guidelines to ensure adequate and timely notice to all electronic toll collection system account holders to inform them when their accounts are delinquent. An owner who is an account holder under the electronic toll collection system shall not be found liable for a violation of this section unless such authority has first sent a notice of delinquency to such account holder and the account holder was in fact delinquent at the time of the violation.

13. Nothing in this section shall be construed to limit the liability of an operator of a vehicle for any violation of toll collection regulations.

14. Notwithstanding any other provision of law, all photographs, microphotographs, videotape or other recorded images prepared pursuant to this section shall be for the exclusive use of a public authority in the discharge of its duties under this section and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless such action or proceeding relates to the imposition of or indemnification for liability pursuant to this section. The public authority shall not sell, distribute or make available in any way, the names and addresses of electronic toll collection system account holders, without such account holders' consent to any entity that will use such information for any commercial purpose provided that the foregoing restriction shall not be deemed to preclude the exchange of such information between any entities with jurisdiction over and or operating a toll highway bridge and/or tunnel facility.

* § 2985-a. Payment of tolls under the tolls by mail program. 1. This section shall not apply to the payment of tolls by means of an electronic toll device that transmits information through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title.

2. For purposes of this section, the following terms shall have the following meanings:

(a) "Cashless tolling facility" shall mean a toll roadway, bridge or tunnel facility that does not provide for the immediate on-site payment in cash of a toll owed for the use of such facility.

(b) "Owner" shall mean any person, corporation, partnership, firm, agency, association, lessor or organization who, at the time of incurring an obligation to pay a toll at a cashless tolling facility, and with respect to the vehicle identified in the toll bill or notice of violation: (i) is the beneficial or equitable owner of such vehicle; or (ii) has title to such vehicle; or (iii) is the registrant or co-registrant of such vehicle which is registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or (iv) subject to the limitations set forth in subdivision ten of section twenty-nine hundred eighty-five of this title, uses such vehicle in its vehicle renting and/or leasing business; or (v) is a person entitled to the use and possession of a vehicle subject to a security interest in another person.

(c) "Toll bill" shall mean a notice sent to an owner notifying such owner that the owner's vehicle has been used or operated in or upon a cashless tolling facility and the owner has incurred an obligation to pay a toll.

(d) "Notice of violation" shall mean a notice sent to an owner notifying such owner that a toll incurred at a cashless tolling facility by the owner has not been paid at the place and time and in the manner established for collection of such toll in the toll bill and that an administrative violation fee is being imposed for each such unpaid toll.

(e) "Billing cycle" shall mean a period not to exceed thirty calendar days once tolls have posted for purposes of consolidated toll billing.

(f) "Initial billing cycle" shall mean a period not to exceed fifteen business days after identifying the owner or other party responsible for paying the toll for the purpose of consolidated toll billing for an obligation to pay a toll bill for the first time at a cashless tolling facility in a six-month period.

(g) "Tolls by mail program" shall mean any program operated by or on behalf of a public authority to send a toll bill to an owner whose vehicle crosses a cashless tolling facility without a valid electronic device that successfully transmits information through an electronic toll collection system as defined in subdivision twelve of section twenty-nine hundred eighty-five of this title.

(h) "Declaration of dispute" shall mean a submission by an owner disputing all or any portion of a toll, fee, penalty, or other obligation incurred by an owner whose vehicle crosses a cashless tolling facility, in such form as the public authority shall provide in regulations and through display on the authority's website.

3. In the case of an owner who incurs an obligation to pay a toll for the first time in six months under the tolls by mail program at a cashless tolling facility, a toll bill shall be sent within ten business days after the end of the initial billing cycle and of each subsequent billing cycle. In the case of all other owners incurring an obligation to pay a toll at a cashless tolling facility, a toll bill shall be sent at the end of the next billing cycle. Toll bills shall be sent to the owner by first class mail, and may additionally be sent by electronic means of communication upon the affirmative consent of the owner, by or on behalf of the public authority which operates such cashless tolling facility. The owner shall have thirty days from the date of the toll bill to pay the incurred toll. The toll bill shall include: (i) the total amount of the incurred tolls due, (ii) the date by which payment of the incurred tolls is due, (iii) any administrative fees, (iv) the address for receipt of payment and methods of payment for the toll, (v) the procedure for contesting any toll and the contact information for the relevant toll payer advocate office and customer service center, (vi) information related to the failure to timely pay or respond to the notice of liability, in addition to the possibility that a judgment can be entered for repeat unpaid liabilities that could lead to a vehicle being towed or immobilized, (vii) a website address or hyperlink for the owner to access time-stamped photographs or footage of each toll incurred by electronic means, (viii) information related to the availability of the toll payer advocate to discuss payment options, and (ix) other information required by law or by the public authority. Each toll bill shall identify the date, time, location, license plate number, and jurisdiction of the license plate for each toll that has been incurred. Each toll bill shall include an image of the license plate of the vehicle being used or operated on the toll facility. If the owner fails to pay the initial toll bill, a second toll bill shall be sent in the next billing cycle, which shall also indicate the overdue toll or tolls and any administrative or late fees due.

4. In the case of an owner who does not pay a toll incurred under the tolls by mail program on a cashless facility at the place and time and in the manner established for collection of such toll in the second toll bill, a notice of violation shall be sent notifying the owner that the toll is unpaid and administrative violation fees are being imposed. The notice of violation shall

be sent to the owner by first class mail, and may additionally be sent by electronic means of communication upon the affirmative consent of the owner, by or on behalf of the public authority which operates such cashless tolling facility. The notice of violation shall include: (i) the total amount of unpaid tolls and administrative violation fees due, (ii) the date by which payment of the tolls and administrative violation fees is due, (iii) the address for receipt of payment and methods of payment for the toll, (iv) the procedure for contesting any toll and the contact information for the relevant toll payer advocate office and customer service center, (v) information related to the failure to timely pay or respond to the notice of liability, in addition to the possibility that a judgment can be entered for repeat unpaid liabilities that could lead to a vehicle being towed or immobilized, (vi) a website address or hyperlink for the owner to access time-stamped photographs or footage of each toll incurred by electronic means, (vii) information related to the availability of the toll payer advocate to discuss payment options, and (viii) other information required by law or by the public authority. Each notice of violation shall identify the date, time, location, license plate number, and jurisdiction of the license plate for each unpaid toll that has been incurred.

5. Any fee or administrative violation fee that is assessed on a notice of violation pursuant to subdivision four of this section shall be dismissed if the notice of violation was not sent within ninety days of the second toll bill, provided that any toll or tolls incurred remain due and payable and provided further that such dismissal shall not apply in the event that exceptional circumstances, including but not limited to technological failures, have delayed the timely mailing of the notice of violation and the public authority has posted notice of such circumstances prominently on its website within a reasonable time of becoming aware of such circumstances, which shall be adequate record of such circumstances.

6. Any toll bill or notice of violation required to be sent pursuant to this section by first class mail may also be sent, with consent of the owner, by electronic means of communication by or on behalf of the public authority. It shall be the sole responsibility of the owner to provide and update the address used for electronic means of communication to the owner by the public authority. A manual or automatic record of electronic communications prepared in the ordinary course of business shall be adequate record of electronic notice.

7. Any owner who incurs an obligation to pay a toll under the tolls by mail program at a public authority's cashless tolling facility shall have an option to receive alerts by electronic means of communication that a toll has been incurred. Such alerts shall be provided to the owner who has elected to receive such alerts no more than seventy-two hours after the owner is identified. Each public authority shall create an online registration for an electronic means of communication alert that a toll has been incurred under the tolls by mail program at a cashless tolling facility. In the event an owner chooses to receive an electronic means of communication alert of a toll incurred, it shall be the owner's sole responsibility to provide and update any mobile numbers, electronic mail addresses, or any other addresses used for electronic means of communication to which alerts are sent. A manual or automatic record of electronic communications prepared in the ordinary course of business shall be adequate record of electronic notice.

8. If an owner receives a notice of violation pursuant to this section for any time period during which the vehicle was reported to the police department as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the vehicle had been reported to the police as stolen prior to the time the violation occurred and had not been recovered by such time. If an owner receives a notice of violation pursuant to this section for any time period during which the vehicle was stolen, but not as yet reported to the police as having been stolen, it shall be a valid defense to an allegation of liability for a violation of toll collection regulations pursuant to this section that the vehicle was reported as stolen within two hours after the discovery of the theft by the owner. For purposes of asserting the defense provided by this subdivision it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the court or other entity having jurisdiction.

9. An owner who is a lessor of a vehicle to which a notice of violation was issued pursuant to subdivision four of this section shall not be liable for the violation of the toll collection regulations provided the owner sends to the public authority serving the notice of violation and to the court or other entity having jurisdiction a copy of the rental, lease or other such contract document covering such vehicle on the date of the violation, with the name and address of the lessee clearly legible, within thirty days after receiving the original notice of violation. Failure to send such information within such thirty-day time period shall render the lessor liable for the penalty prescribed by this section. Where the lessor complies with the provisions of this subdivision, the lessee of such vehicle on the date of such violation shall be deemed to be the owner of such vehicle for purposes of this section and shall be subject to liability for the violation of the toll collection regulations, provided that the public authority mails a notice of violation to the lessee within ten business days after the public authority deems the lessee to be the owner. For purposes of this subdivision the term "lessor" shall mean any person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or otherwise wherein the said lessee has the exclusive use of said vehicle for any period of time. For purposes of this subdivision, the term "lessee" shall mean any person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of one or more vehicles and has exclusive use thereof for any period of time.

10. Except as provided in subdivision nine of this section, if a person receives a notice of violation pursuant to this section it shall be a valid defense to an allegation of liability for a violation of toll collection regulations that the individual who received the notice of violation pursuant to this section was not the owner of the vehicle at the time the violation occurred. If the owner liable for a violation of toll collection regulations pursuant to this section was not the operator of the vehicle at the time of the violation, the owner may maintain an action for indemnification against the operator.

11. Any public authority that operates a cashless tolling facility shall: (i) maintain a website and toll-free phone number for any person to receive updated information on any tolls or fees which are outstanding; and (ii) establish procedures for owners to dispute any tolls and violation fees incurred in connection with toll bills, including a requirement that written

determinations in such disputes shall be issued within forty-five days of receipt of the owner's declaration of dispute. Such information shall be prominently displayed on such public authority's toll bills, notices of violation and website.

12. Every public authority that operates a cashless tolling facility shall develop policies and procedures for the establishment on a case-by-case basis of a written payment plan agreement for an owner's unpaid tolls and administrative violation fees incurred at a cashless tolling facility, subject to the availability of sufficient resources for the public authority to administer such payment plans. Information related to payment plans shall be made available upon the owner's request to the public authority's customer service center. The public authority shall not charge any additional amount or fee for enrollment in a payment plan agreement. Owners shall fully comply with all payment plan agreement terms and conditions and shall be subject to payment plan agreement default provisions.

13. Every public authority that operates a cashless tolling facility shall establish an office of such authority's toll payer advocate, designed to further assist owners who remain unsatisfied after first attempting resolution in writing of their concern with, and receiving written determination from, such authority's customer service center. The office of the toll payer advocate shall also endeavor to identify any systemic issues and recommend reasonable improvements regarding the use of and process involved with the payment of tolls under the tolls by mail program at cashless tolling facilities to the public authority.

14. A public authority that operates a cashless tolling facility, including the officers, employees, contractors and agents of such public authority, shall not report to a consumer reporting agency, as defined in 15 U.S.C. § 1681a, any toll, fee, penalty or other obligation incurred by an owner related to use of a cashless tolling facility.

15. Nothing in this section shall prohibit a public authority from collecting any toll or fee in the event that an owner does not properly register a vehicle pursuant to the laws, rules and regulations of this state, or any other state, territory, district, province, nation or other jurisdiction.

16. Nothing in this section shall require a public authority to perform any action or forbear from performing any action that would in the public authority's sole discretion impair any covenant with the holders of any of the public authority's bonds, notes or other obligations.

* NB Effective provided that the state of New Jersey has enacted legislation having an identical effect (see chapter 56 of 2024, Part WW Subpart B)

TITLE 12 - WHISTLEBLOWER ACCESS AND ASSISTANCE PROGRAM

§ 2986. Whistleblower access and assistance program. 1. Definitions. a. "Employees of state and local authorities" means those persons employed at state and local authorities, including but not limited to: full-time and part-time employees, those employees on probation, and temporary employees.

b. "Attorney general" shall mean the attorney general of the state of New York.

c. "Whistleblower" shall mean any employee of a state or local authority who discloses information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by an employee or board member of the authority, concerning the authority's investments, travel, acquisition of real or personal property, the disposition of real or personal property and the procurement of goods and services.

2. The director of the authorities budget office, after consultation with the attorney general, shall develop and recommend to the legislature a whistleblower access and assistance program which shall include, but not be limited to:

a. evaluating and commenting on whistleblower programs and policies by state and local authorities pursuant to paragraph (e) of subdivision one of section twenty-eight hundred twenty-four of this article;

b. establishing toll-free telephone and facsimile lines available to employees at state and local authorities;

c. offering advice regarding employee rights under applicable state and federal laws and advice and options available to all persons; and

d. offering an opportunity for employees of state and local authorities to identify concerns regarding any issue at a state or local authority.

3. Any communications between an employee and the authorities budget office pursuant to this section shall be held strictly confidential by the authorities budget office, unless the employee specifically waives in writing the right to confidentiality, except that such confidentiality shall not exempt the authorities budget office from disclosing such information, where appropriate, to the state inspector general in accordance with section fifty-five of the executive law, or prevent disclosure to any law enforcement authority.

TITLE 12-A - PUBLIC AUTHORITIES LOBBYING CONTACTS

§ 2987. Lobbying contacts. 1. Definitions. As used in this title:

a. "lobbyist" shall have the same meaning as defined in section one-c of the legislative law.

b. "lobbying" shall mean and include any attempt to influence:

(i) the adoption or rejection of any rule or regulation having the force and effect of law by a public authority, and

(ii) the outcome of any rate making proceeding by a public authority.

c. "contact" shall mean any conversation, in person or by telephonic or other remote means, or correspondence between any lobbyist engaged in the act of lobbying and any person within a state authority who can make or influence a decision on the subject of the lobbying on behalf of the authority, and shall include, at a minimum, all members of the governing board and all officers of the state authority.

2. Every state authority shall maintain a record of all lobbying contacts made with such authority.

3. Every member, officer or employee of a state authority who is contacted by a lobbyist shall make a contemporaneous record of such contact containing the day and time of the contact, the identity of the lobbyist and a general summary of the substance of the contact.

4. Each state authority shall adopt a policy implementing the requirements of this section. Such policy shall appoint an officer to whom all such records shall be delivered. Such officer shall maintain such records for not less than seven years in a filing system designed to organize such records in a manner so as to make such records useful to determine whether the decisions of the authority were influenced by lobbying contacts.