

Public Authorities Accountability Act of 2005

Laws of New York, 2005, Chapter 766

An act to amend the Public Authorities Law, the Environmental Conservation Law, the Legislative Law and chapter 899 of the laws of 1984 relating to creating a public benefit corporation to plan, develop, operate and maintain Roosevelt Island, in relation to enacting the Public Authorities Accountability Act of 2005 and to amend the Executive Law, in relation to the office of the State Inspector General

Became a law January 13, 2006, with the approval of the Governor. Passed on message of necessity pursuant to Article III, section 14 of the Constitution by a majority vote, three-fifths being present.

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

Section 1. Short title. This act shall be known and may be cited as the "Public Authorities Accountability Act of 2005".

S 2. The Public Authorities Law is amended by adding a new section 2 to read as follows:

S 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; or
- (D) An affiliate of such local authority.

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.

4. "Affiliate" or "affiliated with" shall mean a corporate body having substantially the same ownership or control as another corporate body.

5. "Subsidiary" shall not include, for the purposes of this chapter, corporations that have been certified by the parent corporation to the entity created pursuant to section twenty-seven of the chapter of the laws of two thousand five which added this section 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.

S 3. Subdivision 1 of section 352 of the Public Authorities Law, as amended by chapter 55 of the Laws of 1992, is amended to read as follows:

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

S 4. Subdivision 1 of section 527 of the Public Authorities Law, as amended by chapter 189 of the Laws of 1947, is amended to read as follows:

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

S 5. Subdivision 1 of section 552 of the Public Authorities Law, as amended by chapter 929 of the Laws of 1986, is amended to read as follows:

1. A board, to be known as "**Triborough Bridge and Tunnel Authority**" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of seventeen members, all serving ex officio. Those members shall be the persons who from time to time shall hold the offices of chairman and members of Metropolitan Transportation Authority. The chairman of such board shall be the chairman of metropolitan transportation authority, serving ex officio, and the executive director of the authority shall be the executive director of the Metropolitan

Transportation Authority, serving ex officio. The executive director shall be empowered to delegate his or her function and power to appoint, discipline and remove officers and employees to the executive officer of the Triborough Bridge and Tunnel Authority or to such person as may succeed to the powers and duties of said executive officer. The chairman and other members of the board hereby created, and the executive director, shall not be entitled to compensation for their services hereunder but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

S 6. Section 1003 of the Public Authorities Law, as amended by chapter 506 of the Laws of 1995, is amended to read as follows:

S 1003. Trustees. The authority shall consist of seven trustees, five of whom shall serve respectively for terms of one, two, three, four and five years, to be appointed by the Governor, by and with the advice and consent of the Senate. The sixth and seventh trustees shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall serve initial terms of one and two years respectively. Each trustee shall hold office until a successor has been appointed and qualified. At the expiration of the term of each trustee and of each succeeding trustee the governor shall, by and with the advice and consent of the senate, appoint a successor, who shall hold office for a term of five years, or until a successor has been appointed and qualified. In the event of a vacancy occurring in the office of the trustee by death, resignation or otherwise, the governor shall, by and with the advice and consent of the senate, appoint a successor, who shall hold office for the unexpired term. Four trustees shall constitute a quorum for the purpose of organizing the authority and conducting the business thereof. The trustee chosen as chairman as provided in section one thousand four of this title, shall receive an annual salary which shall be set by the trustees of the authority, and which shall not exceed the salary prescribed for the positions listed in paragraph (f) of subdivision one of section one hundred sixty-nine of the executive law. Each other trustee shall not receive a salary or other compensation. Each trustee shall receive his or her reasonable expenses in the performance of his or her duties hereunder. The trustee chosen as chairman may elect to become a member of the New York state and local employees' retirement system on the basis of such compensation to which he or she shall be entitled as herein provided notwithstanding the provisions of any general, special or local law, municipal charter, or ordinance.

S 7. Section 1004 of the Public Authorities Law, as amended by chapter 506 of the Laws of 1995, is amended to read as follows:

S 1004. Officers and employees; expenses. The trustees shall choose from among their own number a chairman and vice-chairman. They shall from time to time select such officers and employees, including a chief executive officer and such engineering, marketing and legal officers and employees, as they may require for the performance of their duties and shall prescribe the duties and compensation of each officer and employee. They shall adopt by-laws and rules and regulations suitable to the purposes of this title. As long as and to the extent that the authority is dependent upon appropriations for the payment of its expenses, it shall incur no obligations for salary, office or other expenses prior to the making of appropriations adequate to meet the same.

S 8. Subdivision 2 of section 1201 of the Public Authorities Law, as amended by chapter 280 of the Laws of 1980, is amended to read as follows:

2. The chairman of such board shall be the chairman of **Metropolitan Transportation Authority**, serving ex officio, and the executive director of the authority shall be the executive director of the Metropolitan

Transportation Authority, serving ex officio. The executive director shall be empowered to delegate his or her function and power to appoint, discipline and remove officers and employees to one or more officers or employees designated by him or her.

S 9. The opening paragraph and paragraph (a) of subdivision 4 of section 1263 of the Public Authorities Law, as amended by chapter 275 of the Laws of 1979, are amended to read as follows:

(a) On recommendation of the chairman, the authority shall appoint an executive director who shall be responsible for the discharge of the executive and administrative functions and powers of the authority, including the administration and the day-to-day operations of the authority and who shall not be a member of the authority.

S 10. Subdivision 1 of section 1282 of the Public Authorities Law, as amended by chapter 464 of the Laws of 1975, is amended to read as follows:

1. The "**New York State Pure Waters Authority**" is hereby reconstituted and continued as the "**New York State Environmental Facilities Corporation**". Reference in any provision of law, general, special or local, or in any rule, regulation or public document to the New York State Pure Waters Authority shall be deemed to be and construed as a reference to the corporation continued by this section. The corporation shall be a body corporate and politic constituting a public benefit corporation. Its membership shall consist of seven directors: the Commissioner of Environmental Conservation who shall be chair, the Commissioner of Health, the Secretary of State, and four directors appointed by the Governor by and with the advice and consent of the Senate. The directors appointed by the Governor who are not State officers, shall serve for terms of six years each, provided, however, that of the directors first appointed, two shall serve for terms of two years, the remaining two for terms of four and six years, respectively, from January first next succeeding their appointment. The appointed members of the New York State Pure Waters Authority in office on the effective date of this title shall be deemed to be directors first appointed in accordance with the foregoing and shall hold office for the balance of the terms for which they were severally appointed. Any vacancy occurring otherwise than by expiration of term shall be filled in the same manner as the original appointment for the balance of the unexpired term. The board of directors of the corporation shall appoint, by resolution, the president of the corporation. The president shall be the chief executive officer of the corporation and shall serve at the pleasure of the board of directors of the corporation.

S 11. The first undesignated paragraph of section 1651 of the Public Authorities Law, as amended by chapter 45 of the Laws of 1962, is amended to read as follows: The **Industrial Exhibit Authority** heretofore established under this act as a public benefit corporation is hereby continued for the accomplishment of the purposes hereinafter indicated. The authority shall be composed and consist of the Commissioner of Agriculture and Markets, the Director of the Budget, the Director of the New York State Fair and four other persons, to be appointed by the Governor. Each of the three members heretofore appointed by the Governor as such and now in office shall continue in office until July first, nineteen hundred fifty-seven and until his successor is appointed and has qualified. The term of each member hereafter appointed by the governor shall be for three years, but the initial term of the three members first hereafter appointed, otherwise than for the remainder of an unexpired term, shall be such that the term of one member shall expire on July first, nineteen hundred fifty-eight, the term of one member shall expire on July first, nineteen hundred fifty-nine, and the term of one member shall expire on July first, nineteen hundred sixty. The term of the fourth member to be appointed by the Governor on or after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall be for three years but the initial term of the member first appointed, otherwise

than for the remainder of an unexpired term, shall expire on July first, two thousand eight. A vacancy occurring in any such office of any member required herein to be appointed by the Governor as such shall be filled by the Governor by appointment for the unexpired term. The members of the Industrial Exhibit Authority (hereinafter in this title referred to as the "authority") shall receive no compensation from the authority for their services as such members, but shall be reimbursed by the authority for the expenses actually and necessarily incurred by them in the performance of their duties under this title. Such authority shall have perpetual existence and the power to acquire by the exercise of the right of eminent domain or otherwise such real estate and other property as may be necessary, to sue and be sued, to incur debts, liabilities and obligations, to issue bonds and other evidences of indebtedness, to have a seal, and to exercise all power authorized by this title and reasonably necessary for accomplishing its purposes, subject to the provisions herein contained and the constitution and laws of the United States and of New York state. Such powers shall be exercised in the name of the authority.

S 12. Subdivision 3 of section 1852 of the Public Authorities Law, as amended by chapter 857 of the Law of 1977, is amended to read as follows:

3. The chairman shall preside over meetings of the authority and shall serve as the primary liaison between the members and authority staff. A vice-chairman may be elected by the authority from among its other members to serve as such at the pleasure of the authority. The vice-chairman shall preside over all meetings of the authority in the absence of the chairman and shall have such other duties as the authority may prescribe. The president shall be the chief executive officer of the authority and shall be primarily responsible for the discharge of the executive and administrative functions of the authority.

S 13. Subdivision 1 of section 1973 of the Public Authorities Law, as amended by chapter 624 of the Laws of 1969, is amended to read as follows:

(1) There is hereby created the **Battery Park City Authority** which shall be a body corporate and politic, constituting a public benefit corporation. Its membership shall consist of seven members to be appointed by the Governor with the advice and consent of the Senate. One of the members first appointed shall serve for a term ending four years from January first next succeeding his appointment; one of such members shall serve for a term ending five years from such date; and one of such members shall serve for a term ending six years from such date. Provided, however, that two board members first appointed on or after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall serve an initial term of two years; provided further that two other board members first appointed on or after the effective date of the chapter of the laws of two thousand five which amended this subdivision shall serve an initial term of four years. Their successors shall serve for terms of six years each. Members shall continue in office until their successors have been appointed and qualified and the provisions of section thirty-nine of the Public Officers Law shall apply. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, the Governor shall appoint a successor with the advice and consent of the Senate to serve for the balance of the unexpired term.

S 14. Subdivision 1 of section 2562 of the Public Authorities Law, as amended by chapter 3 of the laws of 2004, is amended to read as follows:

1. To effectuate the purposes and provisions of this title, there is hereby created the "**New York Convention Center Operating Corporation**", which shall be a body corporate and politic constituting a public benefit corporation. The corporation's board of directors shall consist of twenty-one persons to

be appointed with the advice and consent of the Senate, including fifteen persons appointed by the Governor; two persons appointed by the Temporary President of the Senate; one person appointed by the Minority Leader of the Senate; two persons appointed by the Speaker of the Assembly; and one person appointed by the Minority Leader of the Assembly. Four of the members appointed by the Governor shall be appointed on the written recommendation of the Mayor of the City of New York. One of the directors shall be designated by the Governor as chair of the board of directors to serve as such at the pleasure of the Governor. Upon recommendation of the chair of the board of directors, the board of directors shall appoint an executive director of the corporation. Notwithstanding any general, special or local law concerning the holding of dual offices, an officer or employee of the state may be appointed as an officer or employee of the corporation, and officers and employees of the state may be appointed as members of the board of directors of the corporation, provided however, that the chair of the board of directors shall not be an officer or employee of the corporation, and the executive director of the corporation shall not be a member of the board of directors.

S 15. Section 2800 of the Public Authorities Law, as amended by chapter 479 of the Laws of 1975 and as renumbered by chapter 838 of the Laws of 1983, is amended to read as follows:

S 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 and the State Comptroller, 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 receipts and disbursements, or revenues and expenses, during such fiscal year in accordance with the categories or classifications established by such authority for its own operating and capital outlay purposes;
- (3) its assets and liabilities at the end of its fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds;
- (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 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;
- (6) The projects undertaken by such authority during the past year;

- (7) A listing of
 - (I) All real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority intends to dispose of;
 - (II) All such property held by the authority at the end of the period covered by the report; and
 - (III) All such property disposed of during such period. The report shall contain an estimate of fair market value for all such property held by the authority at the end of the period and the price received by the authority and the name of the purchaser for all such property sold by the authority during such period;
- (8) Such authority's code of ethics; and
- (9) An assessment of the effectiveness of its internal control structure and procedures.
- (B) To the extent practicable, each state authority shall make accessible to the public via its official 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.

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 entity established pursuant to section twenty-seven of the chapter of the Laws of two thousand five which added this subdivision, 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 receipts and disbursements, or revenues and expenses, during such fiscal year in accordance with the categories or classifications established by such authority for its own operating and capital outlay purposes;
 - (3) Its assets and liabilities at the end of its fiscal year including the status of reserve, depreciation, special or other funds and including the receipts and payments of these funds;
 - (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 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;
 - (6) The projects undertaken by such authority during the past year;
 - (7) A listing of

- (I) All real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority intends to dispose of;
 - (II) All such property held by the authority at the end of the period covered by the report; and
 - (III) All such property disposed of during such period. The report shall contain an estimate of fair market value for all such property held by the authority at the end of the period and the price received by the authority and the name of the purchaser for all such property sold by the authority during such period;
- (8) Such authority`s code of ethics; and
 - (9) An assessment of the effectiveness of its internal control structure and procedures.
- (B) To the extent practicable, each local authority shall make accessible to the public via its official 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.

S 16. Section 2801 of the Public Authorities Law, as amended by chapter 479 of the Laws of 1975 and as renumbered by chapter 838 of the Laws of 1983, is amended to read as follows:

S 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, Chairman and Ranking Minority Member of the Senate Finance Committee, and Chairman and Ranking Minority Member of the Assembly Ways and Means Committee, for their information, annually 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 entity established pursuant to section twenty-seven of the chapter of the Laws of two thousand five which added this subdivision, for their information, annually 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.

S 17. Section 2802 of the Public Authorities Law, as amended by chapter 479 of the Laws of 1975 and as renumbered by chapter 838 of the Laws of 1983, is amended to read as follows:

S 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 and the State Comptroller, within thirty days after receipt thereof by such authority, a copy of the annual independent audit report, performed by a certified public accounting firm in accordance with generally accepted government auditing standards, 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 to the entity established pursuant to section twenty-seven of the chapter of the Laws of two thousand five which added this subdivision, within thirty days after receipt thereof by such authority, a copy of the annual independent audit report, performed by a certified public accounting firm in accordance with generally accepted government auditing standards, and management letter and any other external examination of the books and accounts of such authority other than copies of the reports of 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.

S 18. Title 2 of article 9 of the Public Authorities Law is amended by adding a new section 2824 to read as follows:

S 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 senior 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 senior 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; and
- (F) Adopt a defense and indemnification policy and disclose such plan to any and all prospective board members;

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 board member, including the chairperson, shall serve as a public authority's chief executive officer, executive director, chief financial officer, comptroller, or hold any other equivalent position while also serving as a member of the board.

4. Board members of each state and local authority, or subsidiary thereof, shall establish an **audit committee** to be comprised of independent members. 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. To the extent practicable, members of the audit committee should 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 independent members. 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 update the authority's corporate governance principles; and to advise appointing authorities on the skills and experiences required of potential board members.

S 19. Section 2825 of the Public Authorities Law, as amended by chapter 914 of the Laws of 1957 and as renumbered by chapter 838 of the Laws of 1983, is amended to read as follows:

S 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 of her 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 the chapter 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. 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.

S 20. Article 9 of the Public Authorities Law is amended by adding a new title 5-A to read as follows:

Title 5-A: Disposition of Property by Public Authorities

Section 2895. Definitions.

Section 2896. Duties of Public Authorities With Respect to the Disposal of Property.

Section 2897. Disposal of Public Authority Property.

S 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.

S 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 consist of 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, and the Legislature.

S 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, any interest in real property, or any other property which because of its

unique nature is not subject to fair market pricing 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.

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 paragraph c 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 is of a nature and quantity which, if 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;
 - (V) The disposal is for an amount less than the estimated fair market value of the property, the terms of such disposal are obtained by public auction or negotiation, the disposal of the property is intended to further the public health, safety or welfare or an economic

development interest of the state or a political subdivision (to include but not limited to, the prevention or remediation of a substantial threat to public health or safety, the creation or retention of a substantial number of job opportunities, or the creation or retention of a substantial source of revenues, or where the authority's enabling legislation permits), the purpose and the terms of such disposal are documented in writing and approved by resolution of the board of the public authority; 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) through (e) of this subparagraph;

(C) Any real property disposed of by lease for a term of five years or less, if the estimated fair annual rent is in excess of one hundred thousand dollars for any of such years;

(D) Any real property disposed of by lease for a term of more than five years, if the total estimated rent over the term of the lease is in excess of one hundred thousand dollars;
or

(E) 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.

S 21. Subdivision 1 of section 2925 of the Public Authorities Law, as amended by chapter 356 of the Laws of 1993, is amended to read as follows:

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.

S 22. Section 3054 of the Public Authorities Law, as added by chapter 187 of the Laws of 1995, is amended to read as follows:

S 3054. Administration of the corporation. The corporation shall be administered by a board of directors, consisting of seven directors, none of whom shall be officers or employees of the federal government or of the state or political subdivisions thereof. Five of the directors shall be appointed by the Governor. One of the directors shall be appointed by the Majority Leader of the Senate and one of

the directors shall be appointed by the Speaker of the Assembly. Each of the members of the board of directors shall serve at the pleasure of the appointed official. Directors of the corporation may also be members of the supervisory board created for the **City of Troy** pursuant to section ten of chapter seven hundred twenty-one of the Laws of nineteen hundred ninety-four, as amended from time to time. The corporation shall have the power to make and execute contracts to pay the expenses of operation of the supervisory board for the City of Troy, within the appropriation available therefor.

S 23. Paragraph (a) of subdivision 1 of section 3234 of the Public Authorities Law, as amended by chapter 2 of the Laws of 1991, is amended to read as follows:

(a) The corporation shall be administered by seven directors, one of whom shall be the Comptroller, one of whom shall be the Director of the Budget and five of whom shall be appointed by the Governor. A director who is not a State official shall serve for a term expiring at the end of the term actually served by the officer making the appointment and may be removed for cause by such officer after hearing on ten days notice.

S 24. Subdivision 3 of section 15-2137 of the Environmental Conservation Law is amended to read as follows:

3. Notwithstanding any provision of titles 21, 23 and 25 of this article, a board of the **Hudson River-Black River Regulating District** is hereby created to consist of seven members to be appointed by the Governor not less than three of whom shall be residents of the territory comprising the Black River area and not less than three of whom shall be residents of the territory comprising the Hudson River area. The Governor shall appoint one member for a term ending September 1, 1960, one for a term ending September 1, 1961, one for a term ending September 1, 1962, one for a term ending September 1, 1963, and one for a term ending September 1, 1964, and thereafter, on the expiration of their respective terms of office, appointments shall be made for terms of five years. The Governor shall appoint two additional board members, each of whom shall serve for a term of five years from the effective date of his or her appointment; provided, however, that the board members first appointed on or after the effective date of the chapter of the Laws of two thousand five which amended this subdivision shall serve an initial term of two years from the effective date of such appointment. The Governor shall fill any vacancy on such board within thirty days after it occurs for the remainder of the term of office.

S 25. Section 30 of the Legislative Law, as amended by chapter 131 of the Laws of 1927, is amended to read as follows:

S 30. Duties of Finance and Ways and Means Committees and Secretaries. The committees and their secretaries shall have access at all reasonable times to offices of State departments, commissions, boards, bureaus and offices, to institutions and to all state authorities and public works of the State and they may, for the purpose of obtaining information as to the method of operation, general condition, management and needs thereof, examine the books, papers and public records therein.

Notwithstanding any other provision of law such State departments, commissions, boards, bureaus, offices, state authorities and institutions shall through their proper officers or deputies furnish to such committees such data, information or statements as may be necessary for the proper exercise of their powers and duties and for the purpose of carrying into effect the provisions of this article. The Finance and Ways and Means Committee in exercising the powers and performing the duties prescribed by this article may act jointly, or separately, as they deem advisable.

S 26. Subdivision 2 of section 3 of chapter 899 of the laws of 1984, relating to creating a public benefit corporation to plan, develop, operate and maintain and manage **Roosevelt Island**, as amended by chapter 493 of the Laws of 2002, is amended to read as follows:

2. The board of directors of the corporation shall be composed of nine members. One member shall be the commissioner, who shall serve as the chair; one member shall be the director of the budget; and seven public members shall be appointed by the Governor with the advice and consent of the Senate. Of the seven public members, two members, one of whom shall be a resident of Roosevelt Island, shall be appointed upon the recommendation of the Mayor of the City; and four additional members shall be residents of Roosevelt Island. Each member shall serve for a term of four years and until his or her successor shall have been appointed and shall have qualified, except that (a) two of the initial public members appointed by the Governor, one of whom is a resident of Roosevelt Island, and the Roosevelt Island resident member appointed upon the recommendation of the Mayor of the City shall serve for terms of two years each, and (b) the Commissioner and the Director of the Budget shall serve so long as they continue to hold their respective offices. Any action taken by the directors of the corporation shall be taken by majority vote of the directors then in office. The elected public officials who represent Roosevelt Island shall be representatives to the board of directors of the corporation entitled to receive notice of and attend all meetings of such board but shall not be entitled to vote. Failure to give such notice shall not affect the validity of any action taken at a meeting of such board.

S 27. 1. There shall be established an organization to be known as the "**Authority Budget Office**" to provide the Governor and the Legislature with conclusions and opinions concerning the performance of public authorities and to study, review and report on the operations, practices and finances of public authorities as defined by section 2 of the Public Authorities Law.

2. Powers and duties. The organization established by the Governor shall

- (a) Conduct reviews and analysis of the operations, practices and reports of public authorities to assess compliance with the provisions of this act and other applicable provisions of law,
- (b) Maintain a comprehensive inventory of public authorities and subsidiaries and the annual reports of such public authorities as defined in section 2800 of the Public Authorities Law,
- (c) Assist public authorities improve management practices and the procedures by which the activities and financial practices of public authorities are disclosed to the public,
- (d) Make recommendations to the Governor and the Legislature concerning opportunities to improve the performance, reporting, reformation, structure and oversight of public authorities,
- (e) Provide such additional information and analysis as may be reasonably requested by the Legislature and State Comptroller, and
- (f) On July 1, 2007 and annually thereafter issue reports on its findings and analysis 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 Chairman and Ranking Minority Member of the Senate Standing Committee on Corporations, Authorities and Commissions, the Chairman and Ranking Minority Member of the Assembly Standing Committee on Corporations, Authorities and Commissions, the State Comptroller and the Attorney General.

3. Other powers and duties. The organization established pursuant to this section shall have the authority to request and receive from any public 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.

4. The reports received by and prepared by the organization shall be made available to the public, to the extent practicable, through the internet.

S 28. The Executive Law is amended by adding a new article 4-A to read as follows:

Article 4-A: Office of the State Inspector General

Section 51. Jurisdiction.

Section 52. Establishment and Organization.

Section 53. Functions and Duties.

Section 54. Powers.

Section 55. Responsibilities of Covered Agencies, State Officers and Employees.

S 51. Jurisdiction. This article shall, subject to the limitations contained herein, confer upon the office of the State Inspector General, jurisdiction over all covered agencies. For the purposes of this article "covered agency" shall include all executive branch agencies, departments, divisions, officers, boards and commissions, public authorities (other than multi-state or multi-national authorities), and public benefit corporations, the heads of which are appointed by the Governor and which do not have their own inspector general by statute. Wherever a covered agency is a board, commission, a public authority or public benefit corporation, the head of the agency is the chairperson thereof.

S 52. Establishment and Organization.

1. There is hereby established the office of the State Inspector General in the Executive Department. The head of the office shall be the state inspector general who shall be appointed by the governor.
2. The State Inspector General shall hold office until the end of the term of the Governor by whom he or she was appointed and until his or her successor is appointed and has qualified.
3. The State Inspector General shall report to the secretary to the Governor.
4. The State Inspector General may appoint one or more Deputy Inspectors General to serve at his or her pleasure, who shall be responsible for conducting investigations in the agencies to which they are designated and in which they are deemed employed.
5. The salary of the Inspector General shall be established by the Governor within the limit of funds available therefore; provided, however, such salary shall be no less than the salaries of certain State officers holding the positions indicated in paragraph (a) of subdivision one of section one hundred sixty-nine of the Executive Law.

S 53. Functions and Duties. The State Inspector General shall have the following duties and responsibilities:

1. Receive and investigate complaints from any source, or upon his or her own initiative, concerning allegations of corruption, fraud, criminal activity, conflicts of interest or abuse in any covered agency;
2. Inform the heads of covered agencies of such allegations and the progress of investigations related thereto, unless special circumstances require confidentiality;
3. Determine with respect to such allegations whether disciplinary action, civil or criminal prosecution, or further investigation by an appropriate federal, State or local agency is warranted, and to assist in such investigations;

4. Prepare and release to the public written reports of such investigations, as appropriate and to the extent permitted by law, subject to redaction to protect the confidentiality of witnesses. The release of all or portions of such reports may be deferred to protect the confidentiality of ongoing investigations;
5. Review and examine periodically the policies and procedures of covered agencies with regard to the prevention and detection of corruption, fraud, criminal activity, conflicts of interest or abuse;
6. Recommend remedial action to prevent or eliminate corruption, fraud, criminal activity, conflicts of interest or abuse in covered agencies;
7. Establish programs for training State officers and employees regarding the prevention and elimination of corruption, fraud, criminal activity, conflicts of interest or abuse in covered agencies.

S 54. Powers. The State Inspector General shall have the power to:

1. Subpoena and enforce the attendance of witnesses;
2. Administer oaths or affirmations and examine witnesses under oath;
3. Require the production of any books and papers deemed relevant or material to any investigation, examination or review;
4. Notwithstanding any law to the contrary, examine and copy or remove documents or records of any kind prepared, maintained or held by any covered agency;
5. Require any officer or employee in a covered agency to answer questions concerning any matter related to the performance of his or her official duties. No statement or other evidence derived therefrom may be used against such officer or employee in any subsequent criminal prosecution other than for perjury or contempt arising from such testimony. The refusal of any officer or employee to answer questions shall be cause for removal from office or employment or other appropriate penalty;
6. Monitor the implementation by covered agencies of any recommendations made by State Inspector General;
7. Perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of office.

S 55. Responsibilities of Covered Agencies, State Officers and Employees.

1. Every State officer or employee in a covered agency shall report promptly to the State Inspector General any information concerning corruption, fraud, criminal activity, conflicts of interest or abuse by another State officer or employee relating to his or her office or employment, or by a person having business dealings with a covered agency relating to those dealings. The knowing failure of any officer or employee to so report shall be cause for removal from office or employment or other appropriate penalty. Any officer or employee who acts pursuant to this subdivision by reporting to the State inspector general improper governmental action as defined in section seventy-five-b of the civil service law shall not be subject to dismissal, discipline or other adverse personnel action.
2. The head of any covered agency shall advise the Governor within ninety days of the issuance of a report by the State Inspector General as to the remedial action that the agency has taken in response to any recommendation for such action contained in such report.

S 29. Subdivision 3 of section 63 of the Executive Law, as amended by chapter 814 of the Laws of 1969, is amended to read as follows:

3. Upon request of the Governor, Comptroller, Secretary of State, Commissioner of Transportation, Superintendent of Insurance, Superintendent of Banks, Commissioner of Taxation and Finance, Commissioner of Motor Vehicles, or the State Inspector General, or the head of any other department, authority, division or agency of the State, investigate the alleged commission of any indictable offense or offenses in violation of the law which the officer making the request is especially required to execute or in relation to any matters connected with such department, and to prosecute the person or persons believed to have committed the same and any crime or offense arising out of such investigation or prosecution or both, including but not limited to appearing before and presenting all such matters to a grand jury.

S 30. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the Legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 31. This act shall take effect immediately and shall apply to the public authority fiscal year beginning on or after January 1, 2006, provided however that section twenty-seven of this act shall take effect April 1, 2006.