

**NASSAU COUNTY
SEWER AND STORM WATER FINANCE AUTHORITY**

2020 ANNUAL REPORT

**NASSAU COUNTY
SEWER AND STORM WATER FINANCE AUTHORITY**

Dear Governor Cuomo and Distinguished Leaders,

I am pleased to present the 2020 Annual Report of the Nassau County Sewer and Storm Water Finance Authority (the “Authority”) in accordance with Section 2800[2](a) of the New York State Public Authorities Law (the “PAL”) (with respect to local authorities) and PAL Section 1232-q[1] (with respect to the Authority). As required by the PAL, a description of the Authority’s operations and accomplishments in providing financing for sewer and storm water resources projects of Nassau County (the “County”) in 2020 is set forth below. Additional information required by the PAL is included in accompanying appendices.

Operations and Accomplishments

The Authority was established in 2003 by the State of New York (the “State”) under the Nassau County Sewer and Storm Water Finance Authority Act, codified as Title 10-D of Article 5 of the Public Authorities Law of the State (the “Act”), as a public benefit corporation. The State Legislature determined the creation of the Authority to be an effective mechanism to achieve substantial savings to the County for past and prospective sewer and storm water resources capital investments. The Authority has been established for the limited objectives of refinancing outstanding sewer and storm water resources debt issued by or on behalf of the County and financing future County sewer and storm water resources projects. The Authority may issue debt in an amount up to \$350,000,000 for such purposes (exclusive of debt issued to refund or otherwise repay Authority debt).

Pursuant to the Act, the Authority’s governing body (the “Governing Body”) consists of seven members who must be residents of the County, and be appointed by the County Executive and confirmed by the County Legislature, one upon the recommendation of the County Comptroller, two upon recommendation of the Presiding Officer of the County Legislature and two upon the recommendation of the Minority Leader of the County Legislature. The members of the Governing Body as of December 31, 2020 were Kenneth G. Arnold, Peter J. Clines, Michele M. Darcy, Francis X. Moroney and Brian J. Schneider. There were two vacancies.

Bonds and notes of the Authority are special obligations of the Authority, and are payable solely from the revenues, funds and assets pledged as security for the payment thereof, including payments from the County under the Financing Agreement dated as of October 1, 2014 by and between the Authority and the County (the “Financing Agreement”). Most of the Authority’s revenues are derived through the imposition by the County of assessments on properties receiving sewer and storm water resources from the County. The County has agreed in the Financing Agreement to continue to direct each city and town receiver of taxes in the County to pay all such assessments directly to the trustee for the Authority’s bonds.

The Authority had another successful year in 2020 and looks forward to continuing its corporate purposes as provided in the Act.

May 26, 2021

Respectfully submitted,

Kenneth G. Arnold
Chairperson

cc: Hon. Laura Curran
Hon. Richard J. Nicoletto
Hon. Kevan Abrahams

Attachments

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Appendix 1

Financial Reports

Delivered concurrently are the Authority's most recent audited financial statements and independent auditors' report for the reporting year. Set forth below are the professional fees for 2020:

Professional Fees – 2020

Bank of New York – trustee fees	\$1,500
Marks Paneth LLP – audit fees	<u>28,000</u>
Total	\$29,500

Set forth below are the current ratings, if any, on Authority bonds issued by recognized municipal bond rating agencies and notice(s) of changes in such ratings, if any:

S&P Global Ratings	AAA
Moody's Investors Service, Inc.	Aa3

Appendix 2

Authority Mission Statement and Performance Measurements

Name of Public Authority: Nassau County Sewer and Storm Water Finance Authority (the “Authority”)

Public Authority's Mission Statement:

In accordance with its governing legislation, the mission of the Authority is to refinance outstanding sewer and storm water debt issued by or on behalf of Nassau County (the “County”) and to finance County sewer and storm water projects, upon the request of the County. In doing so, the Authority provides an effective mechanism to achieve substantial savings for past and prospective County sewer and storm water capital investments. In all, the Authority helps ensure the health and well-being of all County residents and promotes local environmental protection, serves as an important tool to aid the County's fiscal recovery and benefits County taxpayers.

Date Adopted: December 1, 2010; as amended January 13, 2015

List of Performance Goals (If additional space is needed, please attach):

- Timely financing or refinancing of County sewer and storm water resources projects upon request of the County.
- Timely payment of all debt service and related amounts on obligations of the Authority.
- Timely compliance with audit and reporting requirements in all applicable laws.

Additional questions:

1. Have the board members acknowledged that they have read and understood the mission of the public authority?

Yes.

2. Who has the power to appoint the management of the public authority?

The Authority’s enabling legislation provides that the Authority's Governing Body shall consist of seven members who shall be residents of the County, and be appointed by the County Executive and confirmed by the County Legislature; one upon the recommendation of the County Comptroller, two upon recommendation of the Presiding Officer of the County Legislature and two upon recommendation of the Minority Leader of the County Legislature. Pursuant to the legislation, the Governing Body appoints the officers of the Authority. The statute further provides that the Authority shall hire no employees. Therefore, pursuant to the statute and by agreement with the County, the Authority utilizes the services of County employees to manage the day-to-day operations of the Authority.

3. If the Board appoints management, do you have a policy you follow when appointing the management of the public authority?

The Governing Body appoints officers in accordance with the governing statute and the By-Laws of the Authority.

4. Briefly describe the role of the Board and the role of management in the implementation of the mission.

According to its enabling legislation, the Governing Body of the Authority is vested with, and exercises, the powers of the Authority. The Governing Body approves all debt issuances of the Authority, approves all Authority contracts and takes all other actions required of the Authority by law, By-laws, resolution or agreement. Officers undertake actions delegated to them by law, By-laws, resolution or agreement, including execution of debt instruments. County employees perform day-to-day management of Authority operations.

5. Has the Board acknowledged that they have read and understood the responses to each of these questions?

Yes.

Appendix 3

Outstanding Bonds and Notes

Set forth following is a schedule of the Authority's 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 includes all refinancings, calls, refundings, defeasements and interest rate exchange or other such agreements, and for any debt issued during the reporting year, the schedule also includes a detailed list of costs of issuance for such debt. The means of repayment for Authority debt is the Authority's revenues and fund balance.

<u>Series</u>	<u>Rate</u>	<u>Issue Date</u>	<u>Maturity Date</u>	<u>Outstanding 12/31/2019</u>	<u>Paid In 2020</u>	<u>Outstanding 12/31/2020</u>
2014A	2.00-5.00%	11/18/2014	10/1/2034	\$111,525,000	\$11,795,000	\$99,730,000

Appendix 4

Compensation Schedule

The PAL requires that this Annual Report include a compensation schedule that includes, 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 \$100,000. Section 1232-c[5] of the Act provides, however, that the Authority shall hire no employees. Thus, there is no compensation to report.

Appendix 5

Biographical Information

The PAL requires that this Annual Report include biographical information, not including confidential personal information, for all directors and officers and employees for whom salary reporting is required to be reported as described in Appendix 4. As there are no such salaries reportable therein, there is no biographical information to be reported herein.

Appendix 6

Projects Undertaken

The PAL requires that this Annual Report set forth the projects undertaken by the Authority during the past year. The Authority finances or refinances certain County sewerage and storm water resources projects, but does not undertake such projects itself. Thus, there are no projects undertaken to report.

Appendix 7

Real Property

PAL §2800(2)(a)(7) requires that this Annual Report set forth a listing and description of all real property of the Authority having an estimated fair market value in excess of fifteen thousand dollars that the Authority acquires or disposes of during the past year. This Annual Report must 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. There is no Authority real property upon which to report.

Appendix 8

Code of Ethics

Set forth following is a copy of the Authority's statutory code of ethics.

McKinney's Public Authorities Law § 1232-p
§ 1232-p. Code of ethics

1. Definition. As used in this section the term “authority member” shall mean any officer or member of the board of the authority.

2. No authority member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. (a) No authority member shall accept other employment, which will impair his or her independence of judgment in the exercise of his or her official duties.

(b) No authority member shall accept employment or engage in any business or professional activity which will require the member to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority member shall disclose confidential information acquired by the member in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority member shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for him or herself or others.

(e) No authority member shall engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority member shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence such member or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority member shall abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the member or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority member shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority member employed on a full-time basis nor any firm or association of which such a member is a member nor a corporation a substantial portion of the stock of which is owned or

controlled directly or indirectly by such member, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such member serves or is employed.

(j) If any authority member shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she shall file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. In addition to any penalty contained in any other provision of law, any such authority member who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

5. All members of the authority shall be deemed to be public officers and shall, notwithstanding any other ethical requirements established by state or local law, and when not inconsistent with the provisions of this title, comply with sections seventy-three, seventy-three-a and seventy-four of the public officers law. Notwithstanding any other provision of law, the filing of a Nassau county financial disclosure statement, pursuant to the Nassau county code of ethics as set forth in section twenty-two hundred eighteen of the county charter, by a member of the authority shall constitute and be deemed in compliance with the financial disclosure requirements imposed by this section and section seventy-three-a of the public officers law.

Credits

(Added L.2003, c. 685, § 1, eff. Oct. 21, 2003.)

Appendix 9

Assessment of Internal Controls

Set forth following is an assessment of the effectiveness of the Authority's internal control structure and procedures.

The Authority has taken steps to improve and strengthen its internal control structure and procedures. In 2005, the Authority retained a predecessor to RSM US LLP ("RSM") to: (i) assist in the assessment of the Authority's internal controls; (ii) develop and design new controls including appropriate policies and procedures; (iii) design and implement tests of controls and to monitor results; and, (iv) design and implement information and communication procedures regarding internal controls. RSM subsequently conducted an extensive review of the Authority's processes and internal controls, including interviews with County employees and others providing services to the Authority, and prepared and delivered to the Authority a Report on Internal Controls dated May 8, 2006 (the "RSM Report") containing the results of its review. The Authority approved the RSM Report in June 2006. Included in the RSM Report are Process Flow Maps, a Commentary on Process Flow Maps, a Risk Control Matrix Report, a description of Roles and Responsibilities, an Activities Checklist and a Bookkeeping Outsourcing Recommendation, along with a memorandum containing General Recommendations.

Appendix 10

Enabling Legislation

Set forth following is a copy of the legislation that forms the statutory basis of the Authority.



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PUBLIC AUTHORITIES LAW
ARTICLE 5. PUBLIC UTILITY AUTHORITIES
TITLE 10-D. NASSAU COUNTY SEWER AND STORM WATER FINANCE AUTHORITY

Go to the New York Code Archive Directory

NY CLS Pub A Title 10-D Note (2010)

Pub A Title 10-D Note

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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TITLE 10-D. NASSAU COUNTY SEWER AND STORM WATER FINANCE AUTHORITY

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NY CLS Pub A § 1232 (2010)

§ 1232. Legislative intent

The state legislature hereby recognizes that the creation of a Nassau county sewer and storm water finance authority will be an effective mechanism to achieve substantial savings for past and prospective sewer and storm water capital investments. Moreover, such authority will help ensure the health and well-being of all Nassau county residents and promote local environmental protection. As such, the state legislature herein effectuates these laudable public purposes through the establishment of said authority for the specific and limited objective of refinancing outstanding sewer and storm water debt issued by or on behalf of the county and financing future sewer and storm water projects. In no manner is this legislation designed to alter the county's administration or delivery of sewer and storm water services to county residents nor is the authority intended to impose any additional pecuniary burden on its ratepayers. As a vehicle expressly created to consolidate existing sewer districts, refinance debt, provide a means for financing new debt and prepare for pending federal storm water regulatory requirements, the authority will serve as an important tool to aid the county's fiscal recovery and benefit county taxpayers. Further, the State legislature recognizes that the enactment of chapter three hundred fourteen of the laws of two thousand three, extending the oversight capacity of the Nassau county interim finance authority (NIFA) through calendar year two thousand seven, together with the chapter of the laws of two thousand three which added this title, offers an opportunity for NIFA to continue financing the county's tax certiorari settlements, thereby providing additional budgetary relief and fiscal stability.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.

Former § 1252, add, L 1959, ch 789; renumbered § 1232, L 1965, ch 324, § 2; repealed, L 1985, ch 795, § 3, eff Aug 1, 1985.

Prior § 1232, add, L 1951, ch 615; repealed, L 1957, ch 913, with substance transferred to *Public Housing Law § 451*.



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NY CLS Pub A § 1232-a (2010)

§ 1232-a. Short title

This title shall be known and may be cited as the "Nassau county sewer and storm water finance authority act".

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-b (2010)

§ 1232-b. Definitions

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

1. "Attorney general" means the state attorney general.
2. "Authority" means the public benefit corporation created by section twelve hundred thirty-two-c of this title.
3. "Bonds" means the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.
4. "Comptroller" means the state comptroller.
5. "Construction" means the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of storm water resources facility, sewerage facility or storm water resources and sewerage facility as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, environmental and economic investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.
6. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property both real and personal, and improved and unimproved; the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated; the cost of all systems, facilities, machinery, apparatus, fixtures and equipment; financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources; the cost of engineering and architectural surveys, plans and specifications; the cost of consultant and legal services; the cost of lease guarantee or bond insurance; and the cost of other expenses necessary or incidental to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to the county, or any municipality,

state agency, the state, the United States government, or any other person for expenditures that would be costs of the project hereunder had they been made directly by the authority.

7. "County" means the county of Nassau.

8. "County charter" or "charter of the county" means the county government law of Nassau county.

9. "County executive" means the county executive of the county.

10. "County legislature" means the county legislature of the county.

11. "District" means the Nassau county sewer and storm water resources district created by the chapter of the laws of two thousand three that added this title.

12. "Facility" or "facilities" means collectively a sewerage facility or sewerage facilities and storm water resources facility or storm water resources facilities.

13. "Governing body" means the members of the authority constituting and acting as the governing body of the authority.

14. "Municipality" means any county, city, town, village, improvement district under the town law, commissioner-run district, any other such instrumentality, including any agency, or public corporation of the state, or any of the foregoing or any combination thereof.

15. "Person" means any natural person, partnership, association, joint venture, limited liability company or corporation, exclusive of a public corporation as defined pursuant to article two-A of the general construction law.

16. "Prior districts" means the twenty-seven county sewage collection districts and three county sewage disposal districts heretofore established by the county pursuant to the county charter and existing on the day immediately prior to the effective date of this title.

17. "Project" means any storm water resources facility, sewerage facility or storm water resources and sewerage facility, as the case may be, including the acquisition, planning, development, financing or construction thereof.

18. "Properties" means the storm water resources, sewerage and storm water resources and sewerage system or systems of the authority, whether situated within or without the territorial limits of the district, including the plants, works, structures, instrumentalities or parts thereof and appurtenances thereto, real property, storm water resources facilities, sewerage facilities or any other property incidental to and included in such system or systems or part thereof, and any improvements, extensions and betterments.

19. "Real property" means lands, structures, franchises, rights and interests in lands, waters, lands underwater, riparian rights and air rights, and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise.

20. "Revenues" means all payments and other income and receipts derived by the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance and condemnation, together with all federal, state or municipal aid.

21. "Sewage" means the water-carried human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. The admixture of sewage with industrial or other waste also shall be considered "sewage" within the meaning of this title.

22. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, ground water recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage and to the extent not covered by the foregoing, any facilities operated and maintained by the prior districts.

23. "Sewerage services" means the collection, treatment and disposal of sewage, any services provided by a sewerage facility and any other service related thereto.

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

25. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau or division, or any other agency or instrumentality of the state.

26. "Storm water resources facility" or "storm water resources facilities" means any plants, structures and other real and personal property acquired, rehabilitated, constructed or planned for the purpose of providing storm water resources services, including but not limited to accumulating, transmitting or treating surface water, storm water or ground water, including but not limited to surface water, storm water or ground water reservoirs, basins, dams, canals, aqueducts, standpipes, outfalls, conduits, pipelines, mains, pumping stations, pumps, ditches, wells, injection wells, treatment plants and works, contract rights, franchises, approaches, connections, permits, meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, transmission, or treatment of surface water or ground water; provided, however, that such facilities shall not include any facility for the provision of potable water.

27. "Storm water resources services" means the collection, treatment and disposal of storm water and contaminated surface water or ground water; the development, implementation and monitoring of insect control programs; the monitoring and testing of surface and ground water quality; the development and implementation of hazardous waste testing programs; the development and implementation of hydro-geological studies and reports of the territory encompassing the district; and any services provided by a storm water resources facility and any other service related thereto; provided, however, that such services shall not include the provision of potable water; provided further that in no way shall the provisions of this title be construed to expand storm water related services for which the authority is authorized to provide beyond such services provided by the county department of public works prior to the effective date of this title.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-c (2010)

§ 1232-c. Nassau county sewer and storm water finance authority

1. A public benefit corporation, to be known as the "Nassau county sewer and storm water finance authority" is hereby created for the public purposes, charged with the duties and having the powers provided in this title. The authority shall be a "covered organization", as such term is defined pursuant to the Nassau county interim finance authority act in subdivision ten of section thirty-six hundred fifty-one of this chapter, and shall maintain itself as a publicly rated investment grade entity. The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. The authority's governing body shall consist of seven members who shall be residents of the county, and be appointed by the county executive and confirmed by the county legislature; one upon the recommendation of the county comptroller, two upon recommendation of the presiding officer of the county legislature and two upon recommendation of the minority leader of the county legislature. No more than four members shall be members of the same political party. The first members appointed by the county executive shall be appointed for the following terms of office: two for a term ending on December thirty-first, two thousand five, three for a term ending on December thirty-first, two thousand six and two for a term ending on December thirty-first, two thousand seven. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify, provided that any member who is a county employee shall cease to hold office upon termination of his or her status as a county employee. Vacancies shall be filled in the same manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. The governing body shall appoint a chairperson, a vice chairperson and a treasurer from their own members and a secretary who need not be a member. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. In addition, a member may be removed from office for inefficiency, neglect of duty or misconduct in office, after the governing body has given such member a copy of the charges against him or her and opportunity to be heard in person or by counsel in his or her defense, upon not less than ten days notice. If a member fails to attend three consecutive regular meetings of the authority, unless such absence is for good cause and is excused by the chairperson of the authority or, in the case of the chairperson of the authority, by the chairperson of the county legislature, the office may be deemed vacant for purposes of nomination and appointment of a successor. Members shall serve without compensation, but each member shall be entitled to reimbursement of their actual and necessary expenses, including travel expenses, incurred in the discharge of their duties, provided that the aggregate of such reimbursement allowance to any one member of the authority in any one fiscal year of the authority shall not exceed the sum of five thousand dollars; provided, however, that the authority shall adopt by-laws regarding the approval of such reimbursement of their actual and necessary expenses that specifically include a procedure for prior approval of such expenses by a majority vote of the authority.

2. The powers of the authority shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of four members is present. No action shall be taken except pursuant to the favorable vote of at least four members; provided, however, that no action shall be taken approving borrowing and contracts in an amount exceeding fifty thousand dollars, except by favorable vote of five members of the governing body. The governing body may delegate to one or more of its members or officers such powers and duties as it may deem proper.

3. The officers of the authority, consisting of the chairperson, the vice chairperson, the treasurer and the secretary shall serve in such capacities at the pleasure of the governing body without compensation, but each such officer shall be reimbursed for actual and necessary expenses incurred in the performance of such officer's official duties as officers of the authority. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the governing body and the premium therefore shall be paid by the authority.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality or any public benefit corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member or officer of the authority, nor shall service as such member or officer be deemed incompatible or in conflict with such office, membership or employment, provided, that such officer serves in an unpaid capacity.

5. The authority shall hire no employees.

6. (a) The county executive shall file on or before March thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the authority; (2) the names of the members appointed by the county executive and their terms of office; and (3) the effective date of this title. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate, and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law; provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights, properties, responsibilities and liabilities of the authority then remaining shall pass to and vest in the county.

7. Nothing herein shall be construed to exempt the authority from the requirements set forth in the environmental conservation law and the regulations promulgated thereunder implementing the provisions of the state environmental quality review act.

8. It is hereby determined and declared that the authority and the carrying out of its powers and duties are in all respects for the benefit of the people of the county and the state for the improvement of their health, welfare and prosperity, and that such purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

9. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.

Sub 1, amd, L 2006, ch 723, § 1, eff Sept 13, 2006.



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NY CLS Pub A § 1232-d (2010)

§ 1232-d. Powers of the authority

The authority shall have the power:

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To borrow money and issue bonds or other obligations and to provide for the rights of the holders thereof;
4. To finance or refinance the acquisition, design, construction, reconstruction, rehabilitation and improvement, or otherwise provide and furnish and equip facilities for the county, provided, however, that the county shall have requested such financing or refinancing;
5. To enter into contracts and to execute all instruments necessary, convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;
6. To acquire, by purchase, gift, grant, transfer, contract or lease, lease as lessee, hold, use, and lease as lessor, sell or otherwise convey any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title; provided however, that any sale or lease by the authority must be approved by the county legislature unless the proceeds therefrom are used to pay debt service on authority bonds. In connection with the purchase or lease of such properties, the authority may assume any obligations of the owner of such properties or facilities and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; provided that any acquisition of any real or personal property or any interest therein from the county or any county agency, entity or subsidiary shall occur for no consideration or compensation greater than the amount necessary to defease obligations outstanding with respect to such property;
7. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;
8. To apply for and to accept any gifts, grants or loans of funds or property, or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;
9. To enter into agreements with the county, the state, or any other person for the financing by the authority of projects as herein provided; and
10. To do all things necessary, convenient or desirable for the exercise of the powers granted in this title.

In accordance with the legislative intent, nothing contained within this title shall be construed to affect, alter or modify the county's responsibility: (a) to provide sewerage services, (b) to provide storm water services and (c) to collect moneys generated from charges by the county related to the provision of sewerage and storm water resources services.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-e (2010)

§ 1232-e. Advances on behalf of the authority; transfer of property to authority

1. In addition to any powers granted to it by law, the county from time to time may appropriate sums of money to or on behalf of the authority to defray costs and expenses of the authority. Subject to the rights of bondholders, the county may determine if the moneys so appropriated shall be subject to repayment by the authority to the county and, in such event, the manner and time or times for such repayment.

2. The county or any other municipality may give, grant, sell, convey, loan, license the use of or lease to the authority any property or facility which is useful to the authority in order to carry out its powers under this title; provided, however, that any such transfer of property shall be upon such terms and conditions and subject to the rights of the holders of any bonds, as the authority and the county or other municipality may agree. Notwithstanding the provisions of any state or local law to the contrary, the county shall transfer to the authority any funds which were in the prior districts' accounts upon dissolution thereof, as well as any prior district fund balance held by the county on behalf of the prior districts, or grant recoveries received in connection with assets acquired by the authority from the county, which funds shall be used by the authority for the limited purposes of supporting necessary capital investments, debt service, debt service-related expenses and reserve requirements in a manner consistent with the rate stabilization program established in section six of the chapter of the laws of two thousand three which added this title.

3. Notwithstanding the foregoing, the county shall not have authority to give, grant or sell to the authority any real property upon which county owned facilities are located.

4. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority or the county from the state may be used for any corporate purpose of the authority.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-f (2010)

§ 1232-f. Governmental capacity of the authority and municipalities

The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-g (2010)

§ 1232-g. Bonds of the authority

1. The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts, not to exceed three hundred fifty million dollars (\$ 350,000,000), as it may determine to be necessary to pay the cost of any project or for any other of its corporate purposes, including the establishment of reserves to secure the bonds, the payment of principal of, premium, if any, and interest on the bonds and the payment of incidental expenses in connection therewith. The aggregate principal amount of such bonds, notes or other obligations shall exclude bonds, notes or other obligations issued to refund or otherwise repay bonds, notes or other obligations theretofore issued for such purpose. The authority shall have power from time to time to refund any bond, including bonds of the county issued to pay the cost of any project, by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose of the authority. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable solely out of particular revenues or other moneys as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to priority only to any agreements with the holders of outstanding bonds pledging any particular property, revenues, earnings or moneys. The authority may also enter into loan agreements, lines of credit and other security agreements and obtain for or on its

behalf letters of credit, insurance, guarantees or other credit enhancements to the extent available, in each case for securing its bonds or to provide direct payment of any costs that the authority is authorized to pay.

2. Bonds shall be authorized by resolution of the authority, be in such denominations, bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and any renewals thereof shall mature within forty years from the date of original issuance of any such bonds or within the applicable period of probable usefulness of the object or purpose financed as set forth in the local finance law assuming such provision was applicable, whichever is less. Bonds shall be subject to such terms of redemption, bear interest at such rate or rates, be payable at such times, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places, and be subject to such terms and conditions as such resolution may provide. Bonds may be sold at public or private sale for such price or prices as the authority shall determine, provided that no bonds of the authority, other than obligations designated as notes, shall be sold by the authority at private sale unless such sale and the terms thereof have been approved in writing by the comptroller, or by the state director of the budget, where such sale is to be to the comptroller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds.

3. The authority shall have the power and is hereby authorized to assume any bonds of the county issued and sold to the New York state environmental facilities corporation and in connection therewith to issue its bonds to the New York state environmental facilities corporation in substitution therefor.

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

(a) pledging all or any part of the revenues of the authority, together with any other moneys or property of the authority to secure the payment of the bonds or any costs of the issuance thereof, including but not limited to any contracts, earnings or proceeds of any grant to the authority received from any private or public source, subject to such agreements with bondholders as may then exist;

(b) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(c) limitations on the purpose to which the proceeds from the sale of bonds may be applied;

(d) limitations on the right of the authority to restrict and regulate the use of the project or part thereof in connection with which bonds are issued;

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

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

(g) the creation of special funds into which any revenues or moneys may be deposited;

(h) the terms and provisions of any trust, deed, mortgage or indenture securing the bonds under which the bonds may be issued;

(i) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section twelve hundred thirty-two-h of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(j) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver; provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title; notwithstanding any provision to the contrary, nothing contained in this title shall be deemed to restrict the right of the state or county of Nassau to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto. The authority shall not include in any resolution or contract or agreement with the holder

of its bonds any provision which provides that a default shall occur as a result of the state or county exercising its right to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto;

(k) limitations on the power of the authority to sell or otherwise dispose of any project or any part thereof or other property;

(l) limitations on the amount of revenues and other moneys to be expended for administrative or other expenses of the authority;

(m) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(n) any other matters of like or different character which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

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

6. Notwithstanding any provision of the uniform commercial code to the contrary, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

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

9. The authority, subject to such agreements with bondholders as then may exist, shall have the power, out of any moneys available therefor, to purchase bonds of the authority, which shall thereupon be cancelled.

10. The authority shall have the power and is hereby authorized to issue negotiable notes only for the purpose of paying the cost of any project or for any other of its corporate purposes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issuance of such original note.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-h (2010)

§ 1232-h. Remedies of bondholders

Subject to any resolution or resolutions adopted pursuant to paragraph (i) of subdivision four of section twelve hundred thirty-two-g of this title:

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

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

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders, including the right to require the authority to carry out any other agreements with the holders of such bonds to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

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

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

(e) declare all such bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five percent of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

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

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

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

6. Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues

of which are pledged for the security of the bonds of such issue, and, subject to any pledge or agreement with holders of such bonds, such receiver may enter and take possession of such part or parts of the properties and shall take possession of all moneys and other property derived from such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal, in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-i (2010)

§ 1232-i. State and county not liable on authority bonds

Neither the state nor the county shall be liable on the bonds of the authority and such bonds shall not be a debt of the state or the county, and such bonds shall contain, on the face thereof, a statement to such effect.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-j (2010)

§ 1232-j. Moneys of the authority

All moneys of the authority from whatever source derived shall be paid to the treasurer of the authority and shall be deposited forthwith in such bank or banks in the state designated by the governing body. Moneys derived from charges by the authority related to sewerage services shall be kept separate and shall not be commingled with moneys from charges by the authority related to storm water resources services. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county of a market value equal at all times to the amount on deposit, and all banks and trust companies are authorized to give such security for such deposits. The authority shall have the power, notwithstanding any other provisions of this section, to contract with the holders of any bonds as to the custody, collection, security, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Notwithstanding any other provision of this title to the contrary, for the purpose of any such contract with the holders of any bonds, any moneys of the authority from whatever source derived may be used in whole or in part for the payment of bonds or in any way to secure bonds, and to carry out any such contract. Provided however, that any monies derived from charges by the authority related to sewerage services or storm water resources services shall continue to be accounted for with respect to their source and any such monies which are used for the payment of bonds or in any way to secure bonds, and to carry out any contract with the holders of any bonds, shall be accounted for separately after reduction by an amount equal to the portion thereof applied to the payment of debt service, reserve requirements, if any, and other costs associated with bond-related payments. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the authority shall prescribe a system of accounts.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-k (2010)

§ 1232-k. Bonds legal investments for fiduciaries

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

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-l (2010)

§ 1232-l. Agreement of the state

The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to finance or refinance the acquisition, design, construction, reconstruction, rehabilitation and improvement of facilities and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The state does also hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights of the county to assess, levy and collect special assessments within the district or the county's ability to collect any such charges, rents or fees. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders. Notwithstanding any provision to the contrary, nothing contained in this title shall be deemed to restrict the right of the state or county of Nassau to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto. The authority shall not include in any resolution or contract or agreement with the holder of its bonds any provision which provides that a default shall occur as a result of the state or county exercising its right to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-m (2010)

§ 1232-m. Tax exemption and tax contract by the state

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

the powers conferred upon it by this title, or upon or with respect to any fares, tolls, rentals, rates, charges, fees, revenues or other income received by the authority.

2. Any bonds issued pursuant to this title together with the income therefrom shall at all times be exempt from taxation.

3. The state hereby covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority issued pursuant to this title and the income therefrom and all revenues, monies, and other property pledged to pay or to secure the payment of such bonds shall at all times be free from taxation.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-n (2010)

§ 1232-n. Actions against authority

1. Except in an action for wrongful death, no action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer or agent thereof, unless:

(a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law;

(b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused; and

(c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

3. Any action or proceeding to which the authority or the people of the state may be parties, in which any question arises as to the validity of this title, shall be preferred over all other civil causes of action or cases, except election causes of action or cases, in all courts of the state, and shall be heard and determined in preference to all other civil business pending therein except election causes, irrespective of position on the calendar. The same preference shall be granted upon application of the authority or its counsel in any action or proceeding questioning the validity of this title in which the authority may be allowed to intervene. The venue of any such action or proceeding shall be laid in the state supreme court of the county.

4. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on its bonds, shall be the rate prescribed by section five thousand four of the civil practice law and rules. Interest on payments of principal or interest on any bonds in default shall accrue at the rate or rates set forth in such bonds from the due date thereof until paid or otherwise satisfied.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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PUBLIC AUTHORITIES LAW
ARTICLE 5. PUBLIC UTILITY AUTHORITIES
TITLE 10-D. NASSAU COUNTY SEWER AND STORM WATER FINANCE AUTHORITY

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NY CLS Pub A § 1232-o (2010)

§ 1232-o. Prevailing wage

Each contract to which the authority is a party including, but not limited to, any contract, lease, grant, bond, covenant or other debt agreement entered into directly or indirectly by the authority financing or refinancing in whole or in part, the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation or alteration of a facility or an improvement to property shall require that the work covered by such contract shall be deemed "public work" and subject to and performed in accordance with articles eight and nine of the labor law and, for the purposes of article fifteen-A of the executive law only, the contracting party under such contracts shall be deemed a state agency as that term is defined in such article and such contracts shall be deemed state contracts within the meaning of that term as set forth in such article. Project labor agreements may be entered into wherever possible in order to protect the financial interest of the county in such project by fostering labor harmony in promoting efficient adoption of labor work rules and practices.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-p (2010)

§ 1232-p. Code of ethics

1. Definition. As used in this section the term "authority member" shall mean any officer or member of the board of the authority.

2. No authority member shall have any interest, financial or otherwise, direct or indirect, or engage in any business, transaction or professional activity, or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest.

3. (a) No authority member shall accept other employment, which will impair his or her independence of judgment in the exercise of his or her official duties.

(b) No authority member shall accept employment or engage in any business or professional activity which will require the member to disclose confidential information which he or she has gained by reason of his or her official position or authority.

(c) No authority member shall disclose confidential information acquired by the member in the course of his or her official duties nor use such information to further his or her personal interests.

(d) No authority member shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for him or herself or others.

(e) No authority member shall engage in any transaction as representative or agent of the authority with any business entity in which he or she has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his or her official duties.

(f) An authority member shall not by his or her conduct give reasonable basis for the impression that any person can improperly influence such member or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person.

(g) An authority member shall abstain from making personal investments in enterprises which he or she has reason to believe may be directly involved in decisions to be made by the member or which will otherwise create substantial conflict between his or her duty in the public interest and his or her private interest.

(h) An authority member shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he or she is likely to be engaged in acts that are in violation of his or her trust.

(i) No authority member employed on a full-time basis nor any firm or association of which such a member is a member nor a corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such member, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the authority in which such member serves or is employed.

(j) If any authority member shall have a financial interest, direct or indirect, having a value of ten thousand dollars or more in any activity which is subject to the jurisdiction of a regulatory agency, he or she shall file with the secretary of state a written statement that he or she has such a financial interest in such activity which statement shall be open to public inspection.

4. In addition to any penalty contained in any other provision of law, any such authority member who shall knowingly and intentionally violate any of the provisions of this section may be fined, suspended or removed from office or employment.

5. All members of the authority shall be deemed to be public officers and shall, notwithstanding any other ethical requirements established by state or local law, and when not inconsistent with the provisions of this title, comply with sections seventy-three, seventy-three-a and seventy-four of the public officers law. Notwithstanding any other provision of law, the filing of a Nassau county financial disclosure statement, pursuant to the Nassau county code of ethics as set forth in section twenty-two hundred eighteen of the county charter, by a member of the authority shall constitute and be deemed in compliance with the financial disclosure requirements imposed by this section and section seventy-three-a of the public officers law.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-q (2010)

§ 1232-q. Audit, annual report and budget review

1. In conformity with the provisions of section five of article ten of the state constitution, the accounts of the authority shall be subject to the supervision of the comptroller and an annual audit shall be performed by an independent certified public accountant. The authority shall annually submit to the governor, comptroller, chairperson of the senate finance committee and chairperson of the assembly ways and means committee a detailed report pursuant to the provisions of section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the county executive, the clerk of the county legislature, the county treasurer and each member of the county legislature.

2. The authority shall be subject to the oversight of the county office of legislative budget review.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-r (2010)

§ 1232-r. Limited liability

Neither the members of the governing body, nor any municipality, officer or employee acting on its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the properties of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be deemed to apply to any independent contractor.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-s (2010)

§ 1232-s. Environmental application, proceedings, approvals and permits

1. Any application in relation to the purposes of or contemplated by this title filed prior to the effective date of this title, or any proceeding commenced prior to the effective date of this title, by the county with the department of environmental conservation, the department of health, the department of transportation, any other state agency or instrumentality, or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any agency thereof to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any facility financed in whole or in part by the authority.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-t (2010)

§ 1232-t. Separability

If any section, clause or provision of this title shall be held by a court of competent jurisdiction to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective, such section, clause or provision shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.



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NY CLS Pub A § 1232-u (2010)

§ 1232-u. Effect of inconsistent provisions

In so far as the provisions of this title are inconsistent with the provisions of any other provision of law, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Except as specifically provided for in this title, in the performance of any of its functions, powers and duties, the authority shall be subject to all applicable general or special laws of the state, the county charter, and any local law, ordinance or resolution of the county. Nothing in this section shall be construed to affect section twelve hundred twenty-one of the county charter, which shall remain in full force and effect.

HISTORY:

Add, L 2003, ch 685, § 1, eff Oct 21, 2003.

Appendix 11

Description of the Authority and its Board Structure

Set forth following is 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.

Pursuant to the Act, the Authority's governing body consists of seven members who must be residents of the County, and be appointed by the County Executive and confirmed by the County Legislature, one upon the recommendation of the County Comptroller, two upon recommendation of the Presiding Officer of the County Legislature and two upon the recommendation of the Minority Leader of the County Legislature.

(i) The Authority had the following committees and members as of December 31, 2020: Audit Committee (members: Peter J. Clines, Michele M. Darcy); Governance Committee (members: Kenneth G. Arnold, Peter J. Clines, Francis X. Moroney); and Finance Committee (members: Kenneth G. Arnold, Michele M. Darcy, Francis X. Moroney, Brian J. Schneider).

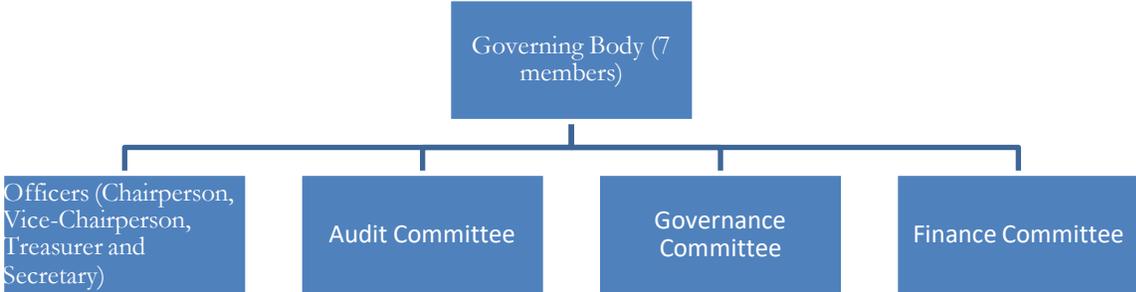
(ii) Board meetings and attendance during 2020:

1. February 26, 2020: Kenneth G. Arnold, Peter J. Clines, Anthony N. Dalessio, Michele M. Darcy and Brian J. Schneider
2. March 26, 2020: Kenneth G. Arnold, Peter J. Clines, Anthony N. Dalessio, Michele M. Darcy and Brian J. Schneider
3. September 10, 2020: Kenneth G. Arnold, Peter J. Clines, Anthony N. Dalessio, Michele M. Darcy, Francis X. Moroney and Brian J. Schneider
4. December 10, 2020: Kenneth G. Arnold, Peter J. Clines, Anthony N. Dalessio, Michele M. Darcy, Francis X. Moroney and Brian J. Schneider

(iii) descriptions of major authority units, subsidiaries: none

(iv) number of employees: 0

(v) organizational chart



Appendix 12

Charter, if any, and By-laws

The Authority is not required to have a charter. Set forth at the following link are its by-laws as of the end of the reporting year:

<https://www.nassaucountyny.gov/DocumentCenter/View/27104/SSWFA-By-laws---March-28-2013-?bidId=>.

Appendix 13

Material Changes in Operations and Programs

There were no material changes in operations and programs of the Authority during the reporting year.

Appendix 14

Four-year Financial Plan

The PAL requires authorities to include herein their current 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.

The Authority does not operate the County’s sewer and storm water resources facilities. Set forth below is the Authority’s operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance.

(in dollars)

SEWER AND STORM WATER FINANCE AUTHORITY								
EXP/REV	OBJECT	2020 Budget	2020 Actual	2021 Budget	2022 Plan	2023 Plan	2024 Plan	2025 Plan
EXP								
	DE - CONTRACTUAL SERVICES	\$300,000	\$29,500	\$300,000	\$300,000	\$300,000	\$300,000	\$300,000
	FF - INTEREST	5,576,250	5,576,250	4,986,500	4,368,250	3,725,000	3,052,750	2,538,500
	GG - PRINCIPAL	11,795,000	11,795,000	12,365,000	12,865,000	13,445,000	10,285,000	8,640,000
	88 - DEBT ISSUANCE COSTS							
	LQ - TRANSFER TO ESCROW							
	LZ - TRANSFER OUT TO SSW	139,759,131	140,120,000	144,795,524	144,879,774	144,943,524	148,776,274	150,936,024
EXP Total		\$157,430,381	\$157,520,750	\$162,447,024	\$162,413,024	\$162,413,524	\$162,414,024	\$162,414,524
REV								
	BE - INVESTMENT INCOME	\$245,000	\$16,299	\$35,000	\$1,000	\$1,500	\$2,000	\$2,500
	BH - DEPT REVENUE (FEDERAL AID)							
	BO - PAYMENT IN LIEU OF TAXES	7,852,738	7,852,738	7,852,738	7,852,738	7,852,738	7,852,738	7,852,738
	TL - PROPERTY TAX	149,332,643	149,332,645	154,559,286	154,559,286	154,559,286	154,559,286	154,559,286
REV Total		\$157,430,381	\$157,201,682	\$162,447,024	\$162,413,024	\$162,413,524	\$162,414,024	\$162,414,524
Surplus (Defecit)		\$0	(\$319,068)	\$0	\$0	\$0	\$0	\$0

Overview of the 2020 Budget and 2020 Actual

Revenue (Estimated Receipts)

The Authority typically has two sources of revenues in its Budget: County assessments for sewer and storm water resources services, and investment income.

Assessments

The Authority receives County assessments for sewer and storm water resources services directly from the receivers of taxes. The levy for such assessments for 2020 was \$157,185,381. Actual receipts were minimally (\$2) higher.

Investment Income

The Authority invests its cash in U.S. Treasury Bills and money market accounts. The Authority budgeted \$245,000 of investment income in 2020. Actual investment income was \$16,299 as a result of lower investment rates due to the pandemic.

Federal Aid

The Authority did not receive any federal aid in 2020.

Expenditures

Contractual Expenses

The Authority budgeted \$300,000 for contractual expenses in 2020, versus actual expenses of \$29,500. The Authority is typically conservative in the amount it budgets for contractual expenses.

Interest Expense

The Authority budgeted \$5,576,250 for interest expense in 2020. Actual interest expense was the same as budgeted.

Principal Payments

The Authority budgeted \$11,795,000 for principal payments in 2020. Actual principal payments were the same as budgeted.

Transfer to the District

The Authority's budget for transfer out to the District in 2020 was \$139,759,131. The Authority transferred \$140,120,000 to the District in 2020 in accordance with the Act and other legal requirements.

Capital Construction in the Budget

The Authority is not authorized under the Act to engage in capital construction.

Appendix 15

Board Performance Evaluations

Delivered separately are the most recent summary results of the confidential evaluation of board performance, which are not subject to disclosure under Article Six of the N.Y. State Public Officers Law.

Appendix 16

Assets and Services Bought or Sold Without Competitive Bidding

PAL § 2800 requires annual reports of public authorities to contain 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.

There were no assets or services bought or sold without competitive bidding or a competitive procurement process (personal services) during the reporting year.

Appendix 17

Material Pending Litigation

None.

Certification

With respect to the attached Annual Report of the Nassau County Sewer and Storm Water Finance Authority, based on the undersigned's knowledge: (i) the information is accurate, correct and does not contain any untrue statement of material fact; (ii) the Annual Report does not omit any material fact which, if omitted, would cause it to be misleading in light of the circumstances under which the statements are made; and (iii) the Annual Report 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 Annual Report.

NASSAU COUNTY SEWER AND STORM WATER
FINANCE AUTHORITY

By: 
Name: Kenneth G. Arnold
Title: Chairperson
Date: 5/26/21

By: 
Name: Brian J. Schneider
Title: Treasurer
Date: 05/26/2021