

Mckinney's Consolidated Laws of New York Annotated Currentness
 Public Authorities Law (Refs & Annos)
 Chapter 43-A. Of the Consolidated Laws
 Article 8. Miscellaneous Authorities (Refs & Annos)
 Title 15. Auburn Industrial Development Authority
 → § 2300. Short title

This title may be cited as the “Auburn Industrial Development Act.”

→ § 2302. Definitions

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

1. The term “authority” shall mean the Auburn Industrial Development Authority, the corporation created by section twenty-three hundred four of this title;
2. The term “board” shall mean the members of the authority;
3. The term “city” shall mean the city of Auburn;
4. The term “bonds” shall mean the bonds, notes, and other obligations issued by the authority pursuant to this title;
5. The term “project” shall mean any land in one or more areas of the city and within or outside or partially within and partially outside the city and any building, structure, facility or other improvement thereon, including, but not limited to machinery and equipment and all real and personal properties deemed necessary in connection therewith, whether or not now in existence or under construction, which shall be necessary or suitable for industrial, warehousing, research or commercial purposes, or for use by a federal agency or a medical facility and which may include or mean an industrial pollution control facility or a civic facility, provided, however, the authority shall not provide financial assistance in respect of any project wholly or partially outside the city provided, however, that the authority may provide financial assistance for such a project where a portion of the project outside the city is contiguous to a portion of the project located within the city if the authority obtains the prior consent thereto by the governing body or bodies of all the other cities, towns or villages in which a part or parts of the project is, or is to be, located.
6. The term “project occupant” shall mean the industrial, manufacturing or commercial enterprise, medical facility, or federal agency which proposes to use a project, as defined in subdivision five of this section, undertaken by the authority.

7. The term “revenues” shall mean any revenues, rents, fees or other charges derived by or on behalf of the authority from any project.

8. The term “state” shall mean the state of New York.

9. The term “federal agency” shall mean and include the United States of America and any department of or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the United States of America, and any independent establishment of the executive branch of the government of the United States of America, including the United States postal service.

10. The term “medical facility” shall mean a hospital or other facilities, whether or not operated for profit, for the prevention, diagnosis or treatment of human disease, pain, injury, disability, deformity or physical condition.

11. The term “industrial pollution control facility” shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property deemed necessary therewith, which are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial, medical and research facilities and facilities for use by a federal agency, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site.

12. The term “financial assistance” shall mean the proceeds of bonds issued by the authority, straight-leases or exemptions from taxation claimed by a project occupant as a result of the authority taking title, possession or control (by lease, license or otherwise) to the property or equipment of such project occupant or of such project occupant acting as an agent of the authority.

13. The term “straight-lease transaction” shall mean a transaction in which the authority takes title, possession or control (by lease, license or otherwise) to the property or equipment of a lessee, entitling such property or equipment to be exempt from taxation according to the provisions of section twenty-three hundred twenty-six of this title, and no financial assistance in the form of the proceeds of bonds issued by the authority is provided to the project occupant.

14. The term “affected tax jurisdiction” shall mean any municipality or school district, in which a project is located, which will fail to receive real property tax payments, or other tax payments which would otherwise be due, except for the tax exempt status of the authority involved in a project.

15. The term “payments in lieu of taxes” shall mean any payment made to an agency, or affected tax jurisdiction equal to the amount, or a portion, of real property taxes, or other taxes, which would have been levied by

or on behalf of an affected tax jurisdiction if the project was not tax exempt by reason of authority involvement.

16. "Highly distressed area" means (a) a census tract or tracts or block numbering areas or areas or such census tract or block numbering area contiguous thereto which, according to the most recent census data available, has:

(i) A poverty rate of at least twenty percent for the year to which the data relates or at least twenty percent of households receiving public assistance; and

(ii) An unemployment rate of at least 1.25 times the statewide unemployment rate for the year to which the data relates; or

(b) A city, town, village or county within a city with a population of one million or more for which: (i) the ratio of the full value property wealth, as determined by the comptroller for the year nineteen hundred ninety, per resident to the statewide average full value property wealth per resident; and (ii) the ratio of the income per resident; as shown in the nineteen hundred ninety census to the statewide average income per resident; are each fifty-five percent or less of the statewide average; or

(c) An area which was designated an empire zone pursuant to article eighteen-B of the general municipal law. [FN1]

[FN1] Article eighteen-B was renumbered article eighteen-C by L.1986, c. 686, § 1. See General Municipal Law § 970-a et seq.

→ § 2304. Auburn industrial development authority

A public benefit corporation to be known as the "Auburn industrial development authority" is hereby created. Such board shall be a body corporate and politic, constituting a public benefit corporation and its existence shall commence upon the appointment of the members as herein provided. Its members shall consist of a chairman and eight other members all of whom shall be appointed by the mayor of the city for a term of three years, and shall include two members of the common council of the city, one representative of the city school board and one representative from each of the fields of business, industry and labor. Every appointment to the board shall be subject to confirmation by the common council of the city. The chairman and each member shall continue to serve until the appointment and confirmation of his successor. Vacancies in such board occurring otherwise than by expiration of term shall be filled by the mayor by appointment for the unexpired term subject to confirmation of the common council of the city. The mayor may remove the chairman or any member of the board for inefficiency, neglect of duty or misconduct in office, after giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. Such removal must be approved by the common council of the city. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. Notwithstanding any incon-

sistent provisions of law, general, special or local, no officer or employee of the city shall be deemed to have forfeited or shall forfeit his office or employment by reason of his acceptance of membership of the authority created by this article, provided, however, that a member who holds such other public office or employment shall receive no additional compensation or allowance for services rendered pursuant to this title, but shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of such services. The power of the authority shall be vested in and exercised by a majority of the members of the authority. The authority may delegate to one or more of its members, or to its officers, agents and employees, such powers and duties as it may deem proper. Such board and its corporate existence shall continue only for a period of ten years and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged. Upon its ceasing to exist, all rights and properties shall pass to and be vested in the city.

→ § 2306. Purpose and powers of the authority

The purposes of the authority shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehouse, commercial and research facilities and facilities for use by a federal agency or a medical facility including industrial pollution control facilities, which may include transportation facilities including but not limited to those relating to water, highway, rail and air, in one or more areas of the city, and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of said city and to improve their medical care and standard of living; provided, however, that the authority shall not undertake any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in abandonment of one or more plants or facilities of the project applicant located within the state, provided, however, that neither restriction shall apply if the authority shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry. To carry out said purpose, the authority shall have power:

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To acquire, hold and dispose of personal property for its corporate purpose;
4. To acquire by purchase, grant, lease, gift, condemnation, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the authority shall determine. With respect to real property conveyed to it by the city, however, such power of disposition shall be limited as hereinafter provided in section twenty-three hundred ten of this title;

5. To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of the project. [FN1]

6. With the consent of the city, to use agents, employees and facilities of the city, paying the city its agreed proportion of the compensation or costs. [FN1]

7. To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the authority, subject, however, to the provisions of the civil service law hereinafter provided in section twenty-three hundred eight of this title;

8. To retain and employ financial advisors, engineers, architects, attorneys and other consultants for professional and technical assistance and advice; that an attorney acting as bond counsel for a project must file with the authority a written statement in which the attorney identifies each party to the transaction which such attorney represents. If bond counsel provides any legal services to the parties other than the authority, the written statement must describe the nature of legal services provided by such bond counsel to all parties to the transaction, including the nature of the services provided to the authority;

9. To make contracts and leases upon such terms as the authority shall deem appropriate, including without limitation leases which grant the tenant of a project an option to renew or an option to purchase the project, or both, at a fixed or otherwise predetermined price, and to execute all instruments necessary or convenient;

10. To acquire, construct, reconstruct, lease, improve, maintain, equip or furnish one or more projects;

11. To accept gifts, grants, loans or contributions from, and enter into contracts or other transactions with, the United States and the state or any agency of either of them, any municipality, any public or private corporation or any other legal entity, and to use any such gifts, grants, loans or contributions for any of its corporate purposes;

12. To borrow money and to issue bonds and to provide for the rights of the holders thereof;

13. To designate the depositories of its money in the city of Auburn. [FN1]

14. To enter into agreements requiring payments in lieu of taxes. Such agreements shall be in writing and in addition to other terms shall contain: the amount due annually to each affected tax jurisdiction (or a formula by which the amount due can be calculated), the name and address of the person, office or agency to which payment shall be delivered, the date on which the payment shall be made, and the date on which payment shall be considered delinquent if not paid. Unless otherwise agreed by the affected tax jurisdictions, any such agreement shall provide that payments in lieu of taxes shall be allocated among affected tax jurisdictions in proportion to the amount of real property tax and other taxes which would have been received by each affected tax jurisdiction had the project not been tax exempt due to the status of the agency involved in the project. A copy

of any such agreement shall be delivered to each tax affected jurisdiction within fifteen days of signing the agreement. In the absence of any such written agreement, payments in lieu of taxes shall be allocated in the same proportions as they had been prior to January first, nineteen hundred ninety-three for so long as the authority's activities render a project non-taxable by affected tax jurisdictions.

15. To establish and reestablish its fiscal year; and

16. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

[FN1] So in original. Probably should be a semicolon.

→ § 2307. Additional prerequisites to the provision of financial assistance

Prior to providing any financial assistance of more than one hundred thousand dollars to any project, the authority must comply with the following prerequisites:

1. The authority must adopt a resolution describing the project and the financial assistance that the authority is contemplating with respect to such project. Such assistance shall be consistent with the uniform tax exemption policy adopted by the agency pursuant to subdivision one of section twenty-three hundred fifteen of this chapter, unless the agency has followed procedures for deviation from such policy specified in subdivision two of such section.

2. The authority must hold a public hearing with respect to the project and the proposed financial assistance being contemplated by the authority. At said public hearing, interested parties shall be provided reasonable opportunity, both orally and in writing, to present their views with respect to the project.

3. The authority must give at least ten days published notice of said public hearing and shall, at the same time, provide notice of such hearing to the chief executive officer of each affected tax jurisdiction [FN1] within which the project is located. The notice of hearing must state the time and place of the hearing, contain a general, functional description of the project, describe the prospective location of the project, identify the initial owner, operator or manager of the project and generally describe the financial assistance contemplated by the authority with respect to the project.

[FN1] So in original. Probably should read "jurisdiction".

→ § 2308. Civil service status of officers and employees

Officers and employees of any board, commission or department of the city may be transferred to the authority in accordance with the provisions of the civil service law and shall be eligible for such transfer and appointment without examination to offices and positions under the authority. Officers and employees of the city

who are members or beneficiaries of any existing pension or retirement system shall continue to have the rights, privileges, obligations and status with respect to such system or systems as are now prescribed by law, and all such employees who have been appointed to positions in the service of the city under the rules of the municipal civil service commission of the city shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and the rules of the city civil service commission.

→ § 2309. Conflicts of interest

All members, officers, and employees of the authority shall be subject to the provisions of article eighteen of the general municipal law.

→ § 2310. Conveyance of property by the city to the authority and conveyance and leasing of said property by the authority

1. The city may, by duly adopted resolution of the common council or by instruments authorized by such resolution, convey, with or without consideration, to the authority real and personal property owned by the city for use by the authority as a project. In case of real property so conveyed, the title thereto shall remain in the city but the authority shall have the use thereof for so long as its corporate existence shall continue and said real property shall be under its jurisdiction, control and supervision within the ambit of section twenty-three hundred twenty-six of this title and exempt from all taxes and assessments except such payments in lieu thereof as may be contained in such resolution or instrument of conveyance. However, such property may be sold, or optioned for sale, by the authority (1) under the payment or agreement to pay reasonable consideration to the city or to the authority according to their respective interest, and (2) upon approval of the terms of such sale, or option for sale, by duly adopted resolution of the common council.
2. To the end that the city or any school district wherein a project or projects or a part thereof of the authority are located may not suffer undue loss of taxes and local improvement assessments the authority in connection with property owned or held by it within the city and such district, is hereby authorized to pay annually in lieu of taxes and local improvement assessments to the city or such school district such sum as may be mutually agreed between the authority and the city or such school district as the case may be. The city and any such school district wherein a project or part thereof of the authority is located is hereby authorized and empowered to enter into an agreement or agreements with the authority to accept the payment or payments which the authority is hereby authorized and empowered to make. The sum so received by the city or any such school district shall be devoted to purposes to which taxes may be applied.
3. The city is authorized to install streets and utilities in the area of the project and to contract with the authority with respect to payments in lieu of local improvement assessments therefor and the authority is authorized so to contract and to make appropriate payments in accordance therewith.

4. The authority is authorized in the event it leases any of the real property conveyed to it by the city, to provide that a portion of the rental derived therefrom shall be allocated to the aforesaid payments in lieu of taxes and assessments and to pay over said portion to the city or school district, as the case may be. The consent of the city or school district as to the method and amount of such allocation shall be appended to any such lease.

→ § 2311. Compensation, procurement and investment

1. The compensation of an officer or full-time employee of the authority (but not including part-time employees or consultants, including accountants, attorneys and bond counsel to the authority) shall not be contingent on the granting of financial assistance by the authority.

2. The provisions of section one hundred four-b of the general municipal law shall be applicable to the procurement of goods and services paid for by the authority for its own use and account.

3. The provisions of sections ten and eleven of the general municipal law shall be applicable to deposits and investments of funds for an agency's own use and account.

→ § 2312. Construction and purchase contracts

The provisions of section eight hundred eighty-four of the general municipal law relating to public bidding with respect to the construction of public facilities or projects shall be applicable to the acquisition, construction, reconstruction, or improvement of projects authorized by this title.

→ § 2314. Moneys of the authority

All moneys of the authority, from whatever source derived, shall be paid to the treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the treasurer on requisition of the chairman of the authority or of such person as the authority may authorize to make such requisitions. All deposits of such money shall, if required by the treasurer or the authority, be secured by obligations of the United States or the state of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous 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. The accounts of the authority shall be subject to the supervision of the state comptroller and he or his legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matter relating to its financial standing and fiscal affairs. The authority shall render a complete annual account of its proceedings to the city council at its first meeting in February of each and every year.

→ § 2315. Uniform tax exemption policy

1. The authority shall establish a uniform tax exemption policy, with input from affected local taxing jurisdictions, which shall be applicable to provisions of financial assistance pursuant to section twenty-three hundred seven of this chapter and shall provide guidelines for the claiming of real property, mortgage recording, and sales tax exemptions. Such guidelines shall include, but not be limited to: period of exemption; percentage of exemption; types of projects for which exemptions may be claimed; procedures for payments in lieu of taxes and instances in which real property appraisals are to be performed as a part of an application for tax exemption; in addition, the authority in adopting such policy shall consider such issues as: the extent to which a project will create or retain permanent, private sector jobs; the estimated value of any tax exemption to be provided; whether affected tax jurisdictions should be reimbursed by the project occupant if a project does not fulfill the purposes for which an exemption was provided; the impact of a proposed project on existing and proposed businesses and economic development projects in the vicinity; the amount of private sector investment generated or likely to be generated by the proposed project; the demonstrated public support for the proposed project; the likelihood of accomplishing the proposed project in a timely fashion; the effect of the proposed project upon the environment; the extent to which the proposed project will require the provision of additional services, including, but not limited to additional educational, transportation, police, emergency medical or fire services; and the extent [FN1] to which the proposed project will provide additional sources of revenue for municipalities and school districts.

2. The authority shall establish a procedure for deviation from the uniform tax exemption policy required pursuant to this section. The authority shall set forth in writing the reasons for deviation from such policy, and shall further notify the affected local taxing jurisdictions of the proposed deviation from such policy and the reasons therefor.

[FN1] So in original. Probably should be "extent".

→ § 2316. Bonds of the authority

1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any of its corporate purposes in an aggregate principal amount not exceeding five hundred million dollars, including interest during construction and a reasonable period thereafter and such expenses as may be deemed by the board necessary or desirable to the financing thereof and placing the project or projects in operation. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may is-

sue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or payment of the bonds to be refunded. In computing the total amount of bonds of the authority which may at any time be outstanding the amount of the outstanding bonds to be refunded from the proceeds of the sale of new bonds or by exchange of new bonds shall be excluded. Except as may otherwise be expressly provided by the authority, the bonds of every issue shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code the bonds shall be and 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.

2. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times not exceeding thirty years from their respective dates, bear interest at such rates, not exceeding fifteen per centum per annum payable annually or semi-annually, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places and be subject to such terms of redemption, as such resolution or resolutions may provide. The bonds may be sold at public or private sale for such price or prices as the authority shall determine, but which shall not at the time of sale yield more than fifteen per centum per annum.

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

- (a) pledging all or any part of the revenues of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders or the city as may then exist;
- (b) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;
- (c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;
- (d) limitations on the right of the authority to restrict and regulate the use of a project;
- (e) limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;
- (f) limitations on the issuance of additional bonds; the terms upon which additional bonds may be issued and secured; the refunding of outstanding or other bonds;

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

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

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders pursuant to section twenty-three hundred thirty hereof, and limiting or abrogating the right of the bondholders to appoint a trustee under said section or limiting the rights, duties and powers of trustee;

(j) any other matters, of like or different character, which in any way affect the security or protection of the bonds.

→ § 2318. Notes of the authority

The authority shall have power from time to time to issue notes and from time to time issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates in an amount not exceeding at any time one hundred thousand dollars, over and above the amount of bonds authorized by subdivision one of section twenty-three hundred sixteen of this title, for any purpose or purposes for which bonds may be issued, whenever the authority shall determine that payment thereof can be made in full from any moneys or revenues which the authority expects to receive from any source. Such notes may among other things, be issued to provide funds to pay preliminary costs of studies, surveys, plans or other matters relating to any proposed project. The authority may pledge such moneys or revenues (subject to any other pledge thereof) for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

→ § 2320. Agreements of the city and state

The city is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds that neither the city nor the state, respectively, will limit or alter the rights, hereby vested in the authority to acquire, construct, reconstruct, improve, maintain, equip and finish the project or projects, to establish and collect rentals, fees and other charges and to fulfill the terms of any agreements made with the holders of the bonds, nor in any way impair the rights and remedies of the bondholders, until the bonds, together with in-

terest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

→ § 2322. State and city not liable on bonds

The bonds and other obligations of the authority shall not be a debt of the state or of the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority.

→ § 2324. Bonds as legal investments

The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

→ § 2326. Tax exemptions

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 city and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.
2. Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the authority, shall be exempt from taxation, except for transfer and estate taxes.
3. Agents of the authority and project operators shall annually file a statement with the department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators, under the authority granted pursuant to this section. The penalty for failure to file such statement shall be the removal of

the authority to act as an agent of the authority or as a project operator.

4. Within thirty days of the date that the authority designates a project operator or other person to act as agent of the authority for purposes of providing financial assistance consisting of any sales and compensating use tax exemption to such person, the agency shall file a statement with the department of taxation and finance relating thereto, on a form and in such manner as is prescribed by the commissioner of taxation and finance, identifying each such agent so named by the authority, setting forth the taxpayer identification number of each such agent, giving a brief description of the property and/or services intended to be exempted from such taxes as a result of such appointment as agent, indicating the authority's rough estimate of the value of the property and/or services to which such appointment as agent relates, indicating the date when such designation as agent became effective and indicating the date upon which such designation as agent shall cease.

→ § 2327. Financial records

1. The authority shall maintain books and records in such form as may be prescribed by the state comptroller.
2. Annually within ninety days following the close of its fiscal year, the authority shall prepare and file a financial report for that fiscal year complying with the requirements of section eight hundred fifty-nine of the general municipal law.
3. If the authority fails to file or substantially complete, as determined by the state comptroller, the financial statement required by section eight hundred fifty-nine of the general municipal law, the penalties set forth in section eight hundred fifty-nine of the general municipal law shall apply to the authority.
4. The authority shall mail or deliver to the chief executive officer and the governing body of the city of Auburn and make available for public inspection and comment, its proposed budget for the forthcoming fiscal year, no later than twenty business days before adoption. At such time the authority shall file its proposed budget with the clerk of the city of Auburn. Such proposed budget shall contain detailed estimates in writing of the amount of revenues to be received and expenditures to be made during the forthcoming fiscal year. Following its consideration of the comments received, the agency may revise its budget accordingly and shall file the revised budget with the clerk of the city of Auburn.
5. Payments in lieu of taxes received by the authority shall be paid over to each affected tax jurisdiction within thirty days of receipt.
6. Payments in lieu of taxes which are delinquent under the agreement or which the authority fails to remit pursuant to subdivision five of this section shall be subject to a late payment penalty of five percent of the amount due which shall be paid by the project occupant (where taxes are delinquent because of the occupant's failure to make the required payment) or the agency (because of the agency's failure to remit pursuant to subdivision five of this section) to the affected tax jurisdiction at the time the payment in lieu of taxes is paid. For each month, or part thereof, that the payment in lieu of taxes is delinquent beyond the first month, interest

shall accrue to and be paid to the affected tax jurisdiction on the total amount due plus a late payment penalty in the amount of one percent per month until the payment is made.

7. An affected tax jurisdiction which has not received a payment in lieu of taxes due to it under an agreement may commence legal action in any court of competent jurisdiction directly against any person, firm, corporation, organization or agency which is obligated to make payments in lieu of taxes under an agreement and has failed to do so. In such an action, the affected tax jurisdiction shall be entitled to recover the amount due, the late payment penalty, interest, expenses, costs and disbursements together with the reasonable attorneys' fees necessary to prosecute such action. Nothing herein shall be construed as providing an affected tax jurisdiction with the right to sue and recover from an agency which has not received payments in lieu of taxes from a project occupant.

8. Any refinancing of a project shall be subject to the provisions of section twenty-three hundred seven of this chapter, except where such refinancing was previously approved pursuant to such section.

9. Agents of the authority and project operators shall annually file a statement with the state department of taxation and finance, on a form and in such a manner as is prescribed by the commissioner of taxation and finance, of the value of all sales and use tax exemptions claimed by such agents or agents of such agents or project operators, including, but not limited to, consultants or subcontractors of such agents or project operators under the authority granted pursuant to this section. The penalty for failure to file such statements shall be removal of authority to act as agent of the authority or project operator.

→ § 2328. Tax contract by the state

The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds or notes, that the bonds and notes of the authority issued pursuant to this title and the income therefrom, and all moneys, funds and revenues pledged to pay or secure the payment of such bonds or notes shall at all times be free from taxation except for estate taxes and taxes on transfers by or in contemplation of death.

→ § 2329. Equal opportunity

1. The authority shall ensure that all employees and applicants for employment are afforded equal employment opportunity without discrimination.

2. Except as is otherwise provided by collective bargaining contracts or agreements, new employment opportunities created as a result of projects of the agency shall be listed with the New York state department of labor community services division, and with the administrative entity of the service delivery area created by the federal job training partnership act (P.L. No. 97-300) [FN1] in which the project is located. Except as is otherwise provided by collective bargaining contracts or agreements, sponsors of projects shall agree, where practicable, to first consider persons eligible to participate in federal job training partnership (P.L. No. 97-300

) programs who shall be referred by administrative entities of service delivery areas created pursuant to such act or by the community services division of the department of labor for such new employment opportunities.

[FN1] 29 USCA § 1501 et seq.

→ § 2330. Remedies of bondholders

1. In the event that the authority shall default in the payment of principal of or interest on any issue of the 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 the bonds, the holders of twenty-five per centum 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 of Cayuga 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 purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his or its own name. [FN1]

(a) by suit, action or special proceeding enforce all rights of the bondholders, including the right to require the authority to collect revenues adequate to carry out any agreement as to, or pledge of, such revenues, and to require the authority to carry out any other agreements with the holders of such bonds and to perform its duties under this title;

(b) bring suit upon such bonds;

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

(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 per centum of the principal amount of such bonds then outstanding, to annul such declaration and its consequences.

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

4. Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' no-

tice in writing to the authority.

5. 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 project the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the authority has covenanted to construct, and with any construction which the authority is under obligation to do and to operate, maintain and reconstruct such part or parts of the project 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 fee, 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 such project.

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

[FN1] So in original. Probably should be a colon.

→ § 2332. **Actions against the authority**

1. In an action against the authority founded upon tort, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which the action is founded were presented to a member of the authority and to its secretary or to its chief executive officer, and that the authority has neglected or refused to make an adjustment or payment thereof for thirty days after the presentment.

2. In a case founded upon tort, a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or an officer, appointee or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice. No action shall be commenced more than one year after the cause of action therefor shall have accrued.

→ § 2333. **Limitation of liability**

Except for acts of omission or commission, with a specific intent to defraud, neither the members of the authority, nor any person or persons acting in its behalf, and within the scope of their authority, shall be subject to any personal liability resulting from the issuance of any notes or bonds of the authority; from the erection, construction, reconstruction, maintenance or operation of any project; or from carrying out any of the powers expressly given in this title.

→ § 2334. Termination of the authority

Whenever all of the bonds issued by the authority shall have been redeemed or cancelled, the authority shall cease to exist and all rights, titles, and interest and all obligations and liabilities thereof vested in or possessed by the authority shall thereupon vest in and be possessed by the city of Auburn.

→ § 2336. Title not affected if in part unconstitutional or ineffective

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

→ § 2338. Inconsistent provisions in other acts superseded

Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of the city, the provisions of this title shall be controlling.

END OF DOCUMENT