TITLE 12

NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION

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§ 1280. Short title. This title may be cited as the "New York State Environmental Facilities Corporation Act."

§ 1281. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Corporation" shall mean the corporation continued by section twelve hundred eighty-two of this title.

2. "Construction" shall mean the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension of sewage treatment works, sewage collecting systems, solid waste disposal facilities, air pollution control facilities, water management facilities, storm water collecting systems, state park infrastructure projects, or all or any portion of Riverbank Park as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

3. "Governing body" shall mean

a. In the case of a county, city, town, village, county or town improvement district, the board of supervisors, board of aldermen, common council, commission, town board, board of trustees or other elective board or body now or hereafter vested by state statute, charter or other law with jurisdiction to initiate and adopt local laws or ordinances, whether or not such local laws or ordinances require the approval of the chief executive officer or other official or body to become effective;

b. In the case of a district corporation, the board vested with the management and control of the corporation; and

c. In the case of a sewer authority now existing in a city, the members of such authority.

4. "Municipal bonds and notes" shall mean the bonds and notes authorized and issued pursuant to the local finance law or other act of the legislature by any municipality for the purposes of financing the construction of a sewage treatment works, sewage collecting system, storm water collecting system, water management facility, air pollution control facility, or solid waste disposal facility.

5. "Municipality" shall mean any county, city, town, village, district corporation, county or town improvement district, sewer authority now existing in a city, or any two or more of the foregoing which are acting jointly in connection with a sewage treatment works, sewage collecting system, solid waste disposal facility, air pollution control facility, water management facility, or storm water collecting system. For purposes of sections twelve hundred eighty-five-j and twelve hundred eighty-five-m of this title only, a municipality may, in addition to the foregoing, include an Indian nation or tribe recognized by the state or the United States with a reservation wholly or partly within the boundaries of New York state, any public benefit corporation or public authority established pursuant to the laws of New York or any agency of New York state which is empowered to construct and operate a municipal water pollution control project or water management facility, or any two or more of the foregoing which are acting jointly in connection with a municipal water pollution control project or water management facility. For purposes of section twelve hundred eighty-five-m of this title only, a municipality may, in addition to the foregoing, include a school district.

6. "Real property" shall mean lands, structures, franchises and interests in land, waters, lands under water, 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.

7. "Sewage collecting systems" shall mean systems of underground conduits designed to pick up sewage from commercial, residential and industrial properties and deliver it by gravity with or without intermediate pumping to a sewage treatment or disposal plant.

8. "Sewage treatment works" shall mean a facility for the purpose of treating, neutralizing or stabilizing sewage, industrial waste or a combination thereof, including but not limited to treatment or disposal plants, the necessary intercepting, outfall, force mains and outlet sewers, pumping stations integral to such plants or sewers, and other property used for treating, utilizing, storing, processing, or finally disposing of sewage or industrial waste, equipment and furnishings thereof and their appurtenances.

9. "Solid waste" shall mean all putrescible and non-putrescible solid wastes, including but not limited to garbage, refuse, sludge, rubbish, ashes, incinerator residue, street cleanings, dead animals, demolition and construction debris, automobile bodies, offal and other discarded and solid materials, including but not limited to that resulting from commercial, industrial, construction, demolition, agricultural, governmental, residential or community processes or activities.

10. "Solid waste disposal facility" shall mean a facility or site for the purpose of treating, compacting, recycling, or disposing of solid waste materials, including treatment, compacting, resource recovery or disposal plants, equipment and furnishings thereof used for the storage, treatment, compacting, composting, shredding, converting, utilization, processing, or final disposal of solid waste, including but not limited to resource recovery facilities, mechanical, chemical or thermal processing systems, incinerators, sanitary landfills, other facilities for the storage, reduction or conversion of solid waste, used singly or in combination, and appurtenances, furnishings, equipment and machinery deemed necessary thereto, whether said facility or site serves one or more purposes in addition to the primary purpose of disposing of solid waste materials, and a facility or site for the collection and conveyance of solid wastes, including but not limited to transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings, equipment and machinery deemed necessary thereto, but not including services necessary for the collection of solid wastes.

11. "State agency" shall mean any officer, authority, corporation, department, board, commission, bureau, division, public benefit corporation, council, agency or instrumentality of the state.

12. "State" shall mean the state of New York.

13. "Cost" as applied to any project shall include, but not be limited to, cost of construction of the project, the cost of acquisition of all property, including real property and other 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 costs of all systems, facilities, machinery and equipment, financing charges, interest prior to and during construction, the cost of engineering and architectural surveys, plans and specifications, the cost of consultants' and legal services, the cost of lease guarantee or bond insurance, other expenses necessary or incident to the construction of such project and the financing of the construction thereof, including the amount authorized in the resolution of the corporation providing for the issuance of bonds to be paid into any special fund from the proceeds of such bonds and the financing of the placing of any project in operation, including reimbursement to any municipality, state agency, the state, the United States government, or any other person for expenditures, made with the prior

approval of the corporation, that would be costs of the project hereunder had they been made directly by the corporation.

14. "Person" shall mean any person, including individuals, firms, partnerships, associations, public utilities or corporations organized or existing under the laws of the state or any other state, exclusive of a municipal corporation or state agency.

15. "Project" shall mean any sewage treatment works, sewage collecting systems, solid waste disposal facilities, air pollution control facility, water management facility, industrial hazardous waste treatment, storage, exchange and disposal facility, inactive hazardous waste disposal site remedial program, storm water collecting system, and waste oil recovery, reprocessing and rerefining facilities or any other works or facilities which the corporation is authorized to plan, finance, construct, operate or maintain under the provisions of this title including all buildings, systems, facilities, appurtenances, machinery and equipment which the corporation deems necessary for the operation of the project, including the site therefor, together with all property, rights, easements and interests, either on or off such site, which may be required for the operation of the project.

16. "Sewage" shall mean 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 with sewage of industrial waste or other waste shall also be considered "sewage" within the meaning of this title.

17. "Air pollution control facility" shall mean a facility, for the purpose of abating or controlling atmospheric pollutants, contaminants, waste or heat, by recovery methods or otherwise, whether said facility serves one or more purposes in addition to the primary purpose of abating or controlling such pollutants, contaminants, waste, or heat, including treatment, neutralizing or stabilizing plants, site equipment and necessary furnishings thereof, their appurtenances, and any property, real or personal, functionally related and subordinate to said facility.

18. "Industrial waste" shall mean any liquid, gaseous, or solid waste substance or a combination thereof resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource which pollutes the water or air of the state.

19. "Water management facility" shall mean a water supply facility or a facility or site for the supply, control, treatment and distribution of water, including but not limited to water transmission lines, pumping stations, reservoirs, dams and other impoundments, and all of the necessary appurtenances incidental thereto for the purpose of providing a public water supply. It shall also mean a facility for the purpose of abating or controlling water pollutants, contaminants, waste or heat, by recovery methods or otherwise, whether said facility serves one or more purposes in addition to the primary purpose of abating or controlling such pollutants, contaminants, waste or heat, including but not limited to treatment, neutralizing or stabilizing plants, site equipment and necessary furnishings thereof, their appurtenances, and any other property, real or personal, functionally related and subordinate to said facility.

20. "Storm water collecting system" shall mean systems of conduits and all other constructions, devices, and appliances appurtenant thereto, designed and used to collect and carry storm water and surface water, street wash and other wash or drainage waters.

21. "Resource recovery facilities" shall mean facilities, structures, machinery, or devices, singly or in combination, designed, constructed and required to separate, process, modify, convert, treat, or prepare collected solid waste so that component materials or substances or recoverable resources may be used as a raw material or for their productive purposes, which are required for the process of obtaining materials, substances, or

heat, oil, gas or other sources or forms of energy from solid waste for use or reuse, including but not be limited to, singly or in combination, structures, mechanical, chemical or thermal processing systems, furnaces, steam generating equipment, electric generating equipment, pyrolization facilities and other appurtenances, furnishings, equipment and machinery deemed necessary thereto.

22. "Industrial hazardous waste" shall mean an industrial waste or combination of wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may: (a)cause, or significantly contribute to an increase in serious irreversible, or incapacitating reversible illness; and/or (b) pose a substantial present or potential hazard to human health or the environment and, therefore, must be segregated and excluded from the general municipal waste system and sewage collection and treatment process.

23. "Industrial hazardous waste treatment, storage and disposal facility" shall mean a specialized facility or site other than a sewage treatment for the purpose of treating, storing, compacting, recycling, exchanging, or disposing of industrial hazardous waste materials, including treatment, compacting, resource recovery or disposal plants, equipment and furnishings thereof used for the storage, treatment, compacting, composting, shredding, converting, utilization, processing, or final disposal of hazardous waste, including but not limited to mechanical, chemical or thermal processing systems, incinerators, sanitary landfills, other facilities for the storage, reduction or conversion of hazardous waste, including but not limited to transfer stations, baling facilities, railroad and maritime facilities, motor trucks or vehicles and appurtenances, furnishings, equipment and machinery deemed necessary thereto.

24. "Hazardous waste" shall have the same meaning as set forth in section 27-1301 of the environmental conservation law.

25. "Inactive hazardous waste disposal site" shall have the same meaning as set forth in section 27-1301 of the environmental conservation law.

26. "Inactive hazardous waste disposal site remedial program" shall have the same meaning as set forth in section 27-1301 of the environmental conservation law.

27. "Municipal water pollution control project" shall mean a sewage facility or related facility which is an "eligible project" within the meaning of section 17-1909 of the environmental conservation law.

* 28. "Riverbank Park" shall mean a park or parks to be located on a site of approximately twenty-eight acres, on the roof of and adjacent to the North River sewage treatment plant, located at the Hudson River between 137th and 145th Streets in the borough of Manhattan, city of New York, including all buildings, systems, bridges and other means of pedestrian or vehicular access, recreational, cultural and athletic facilities, appurtenances, machinery and equipment which the corporation deems necessary for the operation of such park or parks, including the site therefor, together with all property, rights, easements and interests, either on or off such site, which may be required for the operation of such park or parks. Such recreational, cultural and athletic facilities may include, without limitation, swimming pools, gymnasia, athletic fields, skating rinks, tennis courts, theaters or amphitheaters and centers for the performing arts.

* NB There are 2 sub 28's

* 28. "Waste" means any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, whether or not such material may eventually be used for some other purpose, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations or from community activities, and source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954,

as amended, except as may be provided by existing agreements between the state of New York and the government of the United States, but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under article seventeen of the environmental conservation law.

* NB There are 2 sub 28's

29. "State park infrastructure" shall mean state park resources, recreational facilities and historic sites and any other property, real or personal, under the jurisdiction of the New York state office of parks, recreation and historic preservation, together with machinery, equipment, furnishings and fixtures relating thereto or used in connection therewith.

30. "State park infrastructure project" shall mean all costs incurred or to be incurred by or on behalf of the office of parks, recreation and historic preservation for the purpose of preserving, improving or rehabilitating state park infrastructure.

31. "Waste oil" shall mean used engine lubricating oil and any other oil, including but not limited to, fuel oil, motor oil, gear oil, cutting oil, transmission fluid, hydraulic fluid, dielectric fluid, oil storage tank residue, animal oil, and vegetable oil, which has been contaminated by physical or chemical impurities, through use or accident, and has not subsequently been rerefined.

32. "Waste oil recovery, reprocessing and rerefining facilities" shall mean facilities, structures, machinery, or devices, singly or in combination, for purposes of separating, processing, modifying, converting, treating or otherwise preparing waste oil so that it, or its components or substances, may be beneficially reused, including reuse as raw materials, as lubricants, or as an energy source. Such facilities, structures, machinery or devices may include, but shall not be limited to, mechanical, chemical or thermal processing systems, furnaces, laboratories, storage and blending tanks, pumping stations, transfer stations, railroad and maritime facilities, motor trucks or vehicles and other appurtenances, furnishings, machinery and equipment deemed necessary thereto.

33. "Water supply facility" or "water supply project" shall mean a water supply facility which is an "eligible project" within the meaning of subdivision four of section eleven hundred sixty of the public health law.

34. "Recipient" shall mean any municipality, public utility, or person, including any individual, firm, partnership, association, not-for-profit corporation or other corporation organized and existing under the laws of the state or any other state which is empowered to construct and operate an eligible project, or any two or more of the foregoing which are acting jointly in connection with an eligible project.

§ 1282. New York state environmental facilities corporation. 1. The "New York state pure waters authority" is hereby reconstituted and continued as the "New York state environmental facilities corporation". Reference in any provision of law, general, special or local, or in any rule, regulation or public document to the New York state pure waters authority shall be deemed to be and construed as a reference to the corporation continued by this section. The corporation shall be a body corporate and politic constituting a public benefit corporation. Its membership shall consist of seven directors: the commissioner of environmental conservation who shall be chair, the commissioner of health, the secretary of state, and four directors appointed by the governor by and with the advice and consent of the senate. The directors appointed by the governor who are not state officers, shall serve for terms of six years each, provided, however, that of the directors first appointed, two shall serve for terms of two years, the remaining two for terms of four and six years, respectively, from January first next succeeding their appointment. The appointed members of the New York state pure waters

authority in office on the effective date of this title shall be deemed to be directors first appointed in accordance with the foregoing and shall hold office for the balance of the terms for which they were severally appointed. Any vacancy occurring otherwise than by expiration of term shall be filled in the same manner as the original appointment for the balance of the unexpired term. The board of directors of the corporation shall appoint, by resolution, the president of the corporation. The president shall be the chief executive officer of the corporation and shall serve at the pleasure of the board of directors of the corporation.

2. Each director shall not receive a salary or other compensation, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her official duties.

3. Such directors other than the commissioner of environmental conservation, the commissioner of health and the secretary of state may engage in private employment, or in a profession or business, subject to the limitation contained in sections seventy-three and seventy-four of the public officers law. The corporation shall, for the purposes of sections seventy-three and seventy-four of the public officers law, be a "state agency," and such directors shall be "officers" of the corporation for the purposes of said sections.

4. Four directors of the corporation shall constitute a quorum for the transaction of any business or the exercise of any power of the corporation. For the transaction of any business or the exercise of any power of the corporation, the corporation shall have power to act by a majority of the directors present at any meeting at which a quorum is in attendance. Videoconferencing may be used for attendance and participation by the directors. Any director attending and participating by the use of videoconferencing in compliance with article seven of the public officers law shall be considered to be present at the meeting. The corporation may delegate to one or more of its directors, or its officers, agents and employees, such powers and duties as it may deem proper. The commissioner of environmental conservation, the commissioner of health and the secretary of state may, by official proxy, filed with and approved by the corporation, designate an officer in their respective department, to perform, in their absence, their respective duties under this article. The term "director" as used in this subdivision shall include such persons so designated as provided herein. The designation of such persons shall be deemed temporary only and shall not affect the civil service or retirement rights of any persons so designated.

5. Notwithstanding any inconsistent provisions of this or any other law, general, special or local, no officer or employee of the state, or of any civil division thereof, shall be deemed to have forfeited or shall forfeit his office or employment or any benefits provided under the retirement and social security law by reason of his acceptance of membership on the corporation, provided, however, a director who holds such other public office or employment shall receive no additional compensation 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.

6. The governor may remove any director for inefficiency, neglect of duty or misconduct in office after giving him a copy of the charges against him and an opportunity to be heard, in person or by counsel in his defense, upon not less than ten days' notice. If any director shall be so removed, the governor shall file in the office of the department of state a complete statement of charges made against such director, and his findings thereon, together with a complete record of the proceedings.

7. The corporation shall continue so long as it shall have bonds or other obligations outstanding and until its existence shall be terminated by

law. Upon the termination of the existence of the corporation, all its rights and properties shall pass to and be vested in the state.

§ 1283. Purposes of the corporation. 1. The purposes of the corporation shall be the planning, financing, construction, maintenance and operation of sewage treatment works, sewage collecting systems, air pollution control facilities, water management facilities, storm water collecting systems, solid waste disposal facilities and state park infrastructure projects, the construction on behalf of municipalities and state agencies of sewage treatment works, sewage collecting systems, air pollution control facilities, water management facilities, storm water collecting systems and solid waste disposal facilities, the financing, for or on behalf of persons, of sewage treatment works, air pollution control facilities, water management facilities, and solid waste disposal facilities and the making of loans which may, but need not, be secured by mortgage, contracts and other instruments to persons for the planning and construction of sewage treatment works, air pollution control facilities, water management facilities and solid waste disposal facilities and the assistance of municipalities, state agencies and the state in the planning, financing, construction, maintenance and operation of sewage treatment works, sewage collecting systems, air pollution control facilities, water management facilities, storm water collecting systems and solid waste disposal facilities, in accordance with the provisions of this title. In addition, the purposes of the corporation shall include financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park.

2. It is hereby found and declared that such purposes are in all respects for the benefit of the people of the state of New York and the corporation shall be regarded as performing an essential governmental function in carrying out its purposes and in exercising the powers granted by this title.

§ 1284. General powers of the corporation. Except as otherwise limited by this title, the corporation shall have power:

1. To sue and be sued;

2. To have a seal and alter the same at pleasure;

3. To borrow money and issue negotiable or non-negotiable notes, bonds or other obligations and to provide for the rights of the holders thereof;

4. To invest any funds held in reserve or sinking funds, or any monies not required for immediate use or disbursement, at the discretion of the corporation (i) in obligations of the state or the United States of America; (ii) in obligations the principal and interest of which are guaranteed by the state or the United States of America; (iii) in obligations issued by the United States of America, an agency thereof or a United States government sponsored corporation or obligations fully insured or guaranteed as to the payment of principal and interest by the United States of America, an agency thereof or a United States government sponsored corporation; or in deposits with such banks or trust companies as may be designated by the corporation. Each such bank or trust company deposit shall be continuously and fully secured by direct obligations of the state or the United States of America, or by obligations the principal and interest of which are guaranteed by the state or the United States of America, and additionally, any funds managed by the corporation for any municipality may be continuously and fully secured by obligations of any municipality, school district or district corporation of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are hereby authorized to give such security;

5. To make and alter by-laws for its organization and internal management, and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title;

6. To enter into contracts and leases and to execute all instruments necessary or convenient or desirable for the purposes of the corporation or to carry out any powers expressly given it in this title;

7. To acquire, purchase, hold, lease as lessee, dispose of and use any real or personal property or any interest therein necessary, convenient or desirable to carry out the purpose of this title and to sell, lease as lessor, transfer and dispose of any property or interest therein at any time required by it in the exercise of its power including but not limited to the sale, transfer or disposal of any materials, substances or sources or forms of energy derived from any corporate activity.

8. To appoint such officers and employees as it may require for the performance of its duties, and to fix and determine their qualifications, duties and compensation and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

9. To make plans, surveys, and studies necessary, convenient or desirable to the effectuation of the purposes and powers of the corporation and to prepare recommendations in regard thereto, provided that such plans, surveys, studies and recommendations shall be in conformity with any comprehensive studies and reports on the collection, treatment and disposal of sewage conducted and approved pursuant to the provisions of section twelve hundred sixty-three-a of the public health law, on the collection, treatment and disposal of refuse conducted and approved pursuant to the provisions of title IX of the public health law, and on public water supply systems conducted and approved pursuant to the provisions of part V-A of article V of the conservation law and on the control and abatement of air pollution conducted and approved pursuant to the provisions of title II, article twelve-A of the public health law;

10. To enter upon such lands, waters, or premises as in the judgment of the corporation may be necessary, convenient or desirable for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the corporation being liable for actual damage done;

11. To conduct investigations and hearings in the furtherance of its general purposes, and in aid thereof to have access to any books, records or papers relevant thereto; and if any person whose testimony shall be required for the proper performance of the duties of the corporation shall fail or refuse to aid or assist the corporation in the conduct of any investigation or hearing, or to produce any relevant books, records or other papers, the corporation is authorized to apply for process of subpoena, to issue out of any court of general original jurisdiction whose process can reach such person, upon due cause shown;

12. To acquire municipal bonds and notes and bonds and notes of certain state agencies, and to make loan commitments and loans to municipalities and certain state agencies, and to enter into option arrangements with municipalities for the purchase of municipal bonds and notes;

13. To sell any municipal bonds or notes, other securities, or other personal property acquired by the corporation whenever it is determined by the corporation that the sale of such property is desirable; municipal bonds and notes acquired by the corporation shall be sold by the corporation only at public sale at such price or prices as it shall determine, and a notice of such sale shall be published at least once at least five days prior to the date of such sale in a financial newspaper or journal published in the City of New York; the proceeds of the sale by the corporation of any municipal bonds or notes shall be required to be held for the benefit of the bonds and notes and interest thereon entitled to be paid therefrom, or shall be used to purchase, or applied towards the redemption of bonds or notes, at not more than the redemption price then applicable, plus accrued interest to the next

payment date thereon, or, if not then redeemable, at a premium of not more than the redemption price applicable on the first date after such purchase upon which the bonds or notes become subject to redemption, plus accrued interest to said date, all subject to such agreements with bondholders or noteholders as may then exist;

14. To accept any gifts or grants or loans of funds or property from the federal government or from the state or from any other federal or state public body or political subdivision or any other person and to comply, subject to the provisions of this title, with the terms and conditions thereof;

15. To appoint such advisory committees as may be necessary, convenient or desirable to the effectuation of the purposes and powers of the corporation; and

16. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

§ 1285. Special powers of the corporation. In order to effectuate the purposes of this title, the corporation shall have the following special powers:

1. Construction, operation and maintenance of sewage treatment works, sewage collecting systems and solid waste disposal facilities on behalf of a municipality. (a) The corporation and any municipality having power to construct sewage treatment works, sewage collecting systems or solid waste disposal facilities by resolution of its governing body may enter into a contract for the construction of sewage treatment works, sewage collecting systems or solid waste disposal facilities by the corporation for such municipality upon such terms and conditions as the corporation shall determine to be reasonable, including but not limited to the reimbursement of all costs of such construction and claims arising therefrom.

(b) The corporation and any municipality having power to operate and maintain sewage treatment works or solid waste disposal facilities by resolution of its governing body may enter into a contract for the operation and maintenance of sewage treatment works or solid waste disposal facilities by the corporation for such municipality upon such terms and conditions as the corporation shall determine to be reasonable, including but not limited to the reimbursement of all costs of such operation and maintenance and claims arising therefrom.

(c) No such contract shall be deemed to be a contract for public work or purchase within the meaning of the general municipal law.

(d) The corporation and any state agency having the power may enter into a contract for the planning, construction, operation and maintenance of sewage treatment works, sewage collecting systems, solid waste disposal facilities, and for the removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof, as the case may be, for and on behalf of such state agency; the corporation and any such state agency may enter into a contract pursuant to which the corporation may provide for the collection, conveyance, treatment and disposal of sewage, storage, separating, treatment, recycling, reconstituting, compacting, composting, shredding, converting, utilization, processing, pyrolization or final disposal of solid waste by means of sewage collecting systems, sewage treatment works, or solid waste disposal facilities, as the case may be, owned, constructed, operated and maintained by the corporation. Any such contract entered into by any such state agency and the corporation for the purposes of removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof, may provide for ownership, construction, operation and maintenance of such projects by the corporation or by any such state agency and any such contract shall be subject to the approval of the director of the budget. Any such contract or contracts shall be upon such terms and conditions as the corporation and such state agency

shall determine to be reasonable, including but not limited to the reimbursement of all costs of planning, financing, construction and operation and maintenance, and any claims arising therefrom. No such contract shall be deemed to be a contract for public work or purchase within the meaning of the state finance law.

2. Loans to municipalities and certain state agencies. The corporation may make loans to any municipality, or any state agency authorized to issue bonds or notes not constituting a debt or liability within the meaning of section eleven of article seven of the state constitution, for the construction of any sewage treatment works, sewage collecting system or solid waste disposal facility. Any loan by the corporation to any such state agency shall be subject to the approval of the director of the budget. The corporation may accept as evidence of the indebtedness of any such municipality or any state agency authorized to issue bonds or notes not constituting a debt or liability of the state within the meaning of section eleven of article seven of the state constitution, only the municipal bonds or notes of such municipality or bonds or notes of such state agency. Any such loan shall be in an amount or amounts not to exceed the cost of construction of any such sewage treatment works, sewage collecting system or solid waste disposal facility required to be financed by the municipality or such state agency. In connection with the making of any such loans, the corporation may fix and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the corporation, as the corporation shall determine to be reasonable.

3. Construction, operation and maintenance of sewage collecting systems, sewage treatment works and solid waste disposal facilities. (a) The corporation and a municipality having power to construct, operate and maintain sewage treatment works, sewage collecting systems or solid waste disposal facilities, by resolution of its governing body may enter into a contract pursuant to which the corporation may provide for the collection, conveyance, treatment and disposal of sewage or the storage, separating, treatment, recycling, reconstituting, compacting, composting, shredding, converting, utilizing, processing, pyrolization or final disposal of solid wastes by means of sewage treatment works or solid waste disposal facilities, as the case may be, owned and constructed by the corporation and operated and maintained by the corporation or, for and on behalf of the corporation, by such municipality or by any person, as may be approved by the corporation and such municipality, and by means of sewage collecting systems owned and constructed by the corporation for and on behalf of such municipality pursuant to a contract whereby title to such sewage collecting systems shall vest in such municipality in accordance with the provisions of paragraph (c) of this subdivision, and operated and maintained by such municipality upon such terms and conditions as the corporation shall determine to be reasonable. Such contract or contracts shall, except in the case of a sewer corporation now existing in a city, contain provisions in accordance with the requirements of paragraph (b) or (c) of this subdivision, and, in addition thereto and consistent therewith, may provide for the payment to the corporation by such municipality, annually or otherwise, of such sum or sums of money, computed at fixed amounts or by a formula based on any factors or other matters or in any other manner, as said contract or contracts may provide, and the sum or sums so payable may include provision for all or any part or a share of the amounts necessary (i) to pay or provide for the expense of operation and maintenance of any such project including, without limitation, insurance, extensions, betterments and replacements and the principal of and interest on any bonds or notes of the corporation, and (ii) to provide for any deficits resulting from failure to secure sums payable to the corporation by such municipality, any other municipality or from any other cause, and (iii) to maintain such reserves or sinking funds for any of the foregoing as may be required by the terms of any contract of the

corporation or as may be deemed necessary or desirable by the corporation. Such contract or contracts may also contain provisions as to the financing and payment of expenses to be incurred by the corporation and determined by it to be necessary for its purposes prior to the placing in operation of any such project, and may provide for the payment by such municipality to the corporation for application to such expenses or indebtedness therefor such sum or sums of money, not in the aggregate exceeding an amount stated or otherwise limited in said contract or contracts, plus interest thereon, as said contract or contracts may provide and as the governing body of said municipality shall, by virtue of its authorization of and entry into said contract or contracts, determine to be necessary for the purposes of the corporation. Except as otherwise provided in this subdivision, any such contract may be made with or without consideration and for a specified or an unlimited time and on any terms and conditions which may be approved by such municipality and which may be agreed to by the corporation in conformity with its contracts with the holders of any of its bonds or notes, and shall be valid whether or not an appropriation with respect thereto is made by such municipality prior to authorization or execution thereof. The corporation may sell, transfer or dispose of, in any manner it deems desirable any materials, substances or sources or forms of energy derived from any corporate activity, including but not limited to sludge, raw materials, by-products; heat, oil, steam or electric energy in accordance with any contract pursuant to this paragraph or pursuant to paragraphs (b) and (d) of subdivision one of section twelve hundred eighty-five of this title. Such municipality is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and to provide for the payment or discharge of any obligation thereunder in the same manner as other obligations of such municipality. Subject to any such contracts with the holders of its bonds or notes, the corporation is hereby authorized to do and perform any and all acts or things necessary, convenient or desirable to carry out and perform every such contract and, in accordance with any such contract to waive, modify, suspend or reduce charges which would otherwise be charged and collected by the corporation within the municipality.

A municipality shall not be liable for any act or omission of the corporation, its officers, agents, servants or contractors in the performance of any such contract by the corporation.

(b) Except as provided in paragraph (c) of this subdivision, any contract entered into by the corporation and any municipality, other than a sewer corporation now existing in a city, pursuant to this subdivision shall provide that the municipality shall not acquire any vested rights in any such works or facility by reason of such contract, and, in the case of a county, city, or village, that all or any portion of the annual payments, as the case may be, made by such municipality, shall be deemed to be current operating expenses of such municipality within the meaning of section ten of article eight of the state constitution where all or any portion of such payments are or may be required to be raised by tax on real estate in any fiscal year of such municipality.

(c) Any contract entered into by the corporation and any municipality pursuant to this subdivision may provide that at the termination thereof the title to the works or facility shall vest in the municipality or its successor in interest, if any, free and clear of any indebtedness contracted by the corporation. Any such contract entered into by the corporation and any municipality which provides that title shall so vest in the municipality or its successor in interest, other than a sewer authority now existing in a city, shall be subject to the following provisions:

(1) The term of any such contract shall not exceed the period of probable usefulness of the works or facility as provided in section 11.00 of

the local finance law, computed from the date of the first indebtedness contracted by the corporation for such works or facility.

(2) The annual payments to be made by the municipality to the corporation to enable the corporation to pay the principal of any such indebtedness contracted by it to finance the cost of such works or facility shall commence within two years after any such indebtedness or portion thereof shall have been contracted and no such annual payment shall be more than fifty percentum in excess of the smallest prior annual payment for such purpose.

(3) The municipality shall pledge its full faith and credit for the payment of such annual payments described in subparagraph two of this paragraph (c) and also for the payments required to be made to the corporation to enable it to pay the interest on any such indebtedness.

(4) The total amount of any unpaid annual payments in relation to the principal of any such indebtedness shall be deemed to be indebtedness of the county, city, town or village for a capital improvement within the meaning of subparagraph (b) of subdivision three of paragraph a of section 135.00 of the local finance law or indebtedness contracted by a district corporation pursuant to subdivision seven of paragraph a of such section 135.00, as the case may be.

(5) The total amount of any unpaid annual payments in relation to the construction or reconstruction of facilities for the conveyance, treatment and disposal of sewage shall be deemed to be indebtedness of the county, city, town or village within the meaning of subdivision four-a of section 136.00 of the local finance law.

(6) The annual payments by a county, city or village in relation to such indebtedness and interest shall be deemed to be "indebtedness" and "interest" within the meaning of section ten of article eight of the state constitution.

(7) The contract shall not be renegotiated, or amended, in such manner as to constitute a refunding within the meaning of section two of article eight of the state constitution.

(8) The contract shall not be applicable to any works or facility constructed or reconstructed to effectuate the purposes of article eighteen of the state constitution.

(9) The municipality shall not be liable for a default on the obligations of the corporation. If the expenditure of money, or the issuance of obligations, for a project would be subject to the adoption of a proposition pursuant to paragraph b of section 38.00 of the local finance law, a contract between a district corporation and the corporation pursuant to the provisions of this paragraph (c) shall be subject to approval at an election or meeting in the same manner as provided in such section 38.00. In the case of a district corporation subject to the provisions of section 102.00 of the local finance law, the annual payments to be made to the corporation to enable it to pay the principal of any indebtedness contracted by it to finance the cost of the project shall be deemed to be indebtedness within the meaning of such section and section 120.00 of such law and any contract entered into between the district corporation and the corporation pursuant to the provisions of this paragraph (c) shall be subject to the consent of the city, town or village affected as provided in such section 102.00. A contract pursuant to the provisions of this paragraph (c) shall be deemed to be an issuance of bonds, bond anticipation notes or capital notes for the purposes of subdivisions three, four, five, and seven of section 104.10 of the local finance law insofar as the contract shall provide for annual payments to the corporation to enable it to pay the principal of indebtedness contracted by it to finance the cost of any project.

(d) Where a county, city, town or village is prevented from utilizing the provisions of this subdivision, by the provision of any general or special law, county, city or village charter which (i) requires that any

project must be constructed, operated and maintained by the municipality, (ii) limits the period of time for which a municipality may contract, (iii) requires that the cost shall be paid for by taxes levied for the fiscal year in which the expenditure is to be made, (iv) requires that the cost shall be financed pursuant to the local finance law or (v) only permits any such project to be constructed subject to either mandatory or permissive referendum, such county, city, town or village may adopt a local law superseding the provisions of any such general or special law, county, city or village charter. Any such local law shall be subject to mandatory referendum, or referendum on petition in the manner provided in sections twenty-three or twenty-four, as the case may be, of the municipal home rule law, if the issuance, or the resolution authorizing the issuance, of serial bonds having a maturity of more than ten years to finance any such project would be required, under or pursuant to the provisions of sections 33.10, 34.00, 35.00 or 36.00 of the local finance law or any other law, to be subject to mandatory or permissive referendum.

4. The corporation is empowered to lease or rent a project constructed and owned by the corporation pursuant to any contract with a municipality or state agency as herein provided for, to any person, as may be approved by the municipality or state agency. The corporation may make available the use or services of any such project, with the approval of such municipality or state agency, to one or more persons, or any combination thereof, upon such terms and conditions as the corporation may determine reasonable.

5. When requested by the governing body of a municipality, or when requested by a person or state agency, the corporation may advise such municipality, person or state agency on matters relating to the planning, construction, operation and maintenance of sewage treatment works, sewage collecting systems, solid waste disposal facilities, and any other projects which the corporation is authorized to construct pursuant to any provisions of this title, on matters relating to the identification, collection, handling, separation and disposal of waste, and on matters relating to the prevention and control of air emissions and water discharges subject to regulation pursuant to the environmental conservation law, and pursuant to a contract with a municipality, person or state agency, may render technical assistance and may undertake research, planning and testing with respect to any such matter, and the corporation may make a reasonable charge to such municipality, person or state agency for the performance of any such functions authorized by this subdivision.

6. In selecting a location for any projects constructed pursuant to subdivision one or subdivision three of this section, the corporation shall take into consideration the character of the area of any proposed location and the zoning regulations, if any, applicable to such area.

7. When requested by the governing body of a municipality or by a state agency, any contract pursuant to either subdivision one or subdivision three of this section, except a contract pursuant to which the municipality shall not acquire a vested interest in the project, may provide as part of a project and upon the site of such project, for the construction and financing, pursuant to the provisions of this title, by the authority of such other facilities, betterments, improvements and appurtenances for which such municipality or state agency has the power to provide. Such construction and financing shall be permitted when necessary to develop or restore such site to a beneficial municipal or public use, and in accordance with the plans or design of the project prepared and approved by such municipality or state agency, or as may be prepared by the corporation on behalf of such municipality or state agency.

8. The corporation is empowered to enter into one or more contracts with any person designated by the corporation to be a responsible agent for the planning, design, construction and operation of one or more solid waste processing pilot projects. The corporation shall require such person to

supply it with such plans, estimates of costs, time schedules, designs, and other data as the corporation shall determine to be reasonable to enable proper identification of costs. Such pilot projects are to determine which methods of recycling solid wastes, including, but not limited to shredding, compression, high-temperature incineration, pyrolization, separation or any other new technology for resource recovery in solid waste management are most feasible for large-scale implementation by the corporation and by municipalities in this state, having due regard for the resources to be recovered, net costs, amount of land required, and environmental considerations. The corporation shall issue annual reports as to the results of these projects, containing recommendations not inconsistent with those findings, and shall make copies of the report, findings and supporting data available to any municipality in this state. For this purpose the corporation is authorized to apply to the United States Public Health Service, Environmental Protection Agency, United States Department of Agriculture, or any other appropriate authority for grants of such federal funds as may be available toward the financing of or contracting for such projects.

The corporation shall transmit a copy of its report to the commissioner of environmental conservation, who shall hold public hearings on its recommendations, pursuant to section 3-0301 of the environmental conservation law, at which hearings testimony shall be taken from all interested parties. Following the termination of said hearings, the department of environmental conservation may make additional findings, if any, and shall have the power to promulgate rules and regulations and/or propose legislation, consistent with its findings, to implement the report.

§ 1285-a. Construction, operation and maintenance of air pollution control facilities, water management facilities and storm water collecting systems.

1. The corporation and any municipality having power to construct air pollution control facilities, water management facilities or storm water collecting systems, by resolution of its governing body may enter into a contract for the construction of air pollution control facilities, water management facilities or storm water collecting systems by the corporation for such municipality upon such terms and conditions as the corporation shall determine to be reasonable, including but not limited to reimbursement of all costs of such construction and claims arising therefrom.

2. The corporation and any state agency having power to construct air pollution control facilities, water management facilities, or storm water collecting systems may enter into a contract for the construction of air pollution control facilities, water management facilities or storm water collecting systems by the corporation for such state agency upon such terms and conditions as the authority and such state agency shall determine to be reasonable, including but not limited to reimbursement of all costs of such construction and claims arising therefrom.

3. The corporation and any municipality having power to construct, operate and maintain air pollution control facilities or storm water collecting systems, by resolution of its governing body may enter into a contract pursuant to which the corporation may provide for the treatment, neutralization and disposal of gaseous wastes and other air pollutants, by means of air pollution control facilities owned and constructed by the corporation and operated and maintained by the corporation or, for and on behalf of the corporation, by such municipality or by any person as may be approved by the corporation and such municipality, or for the collection and conveyance of storm waters by means of storm water collecting systems owned and constructed by the corporation for and on behalf of such municipality. Such contract or contracts shall be in accordance with the provisions of, and shall contain the same terms, conditions and requirements as are set forth in subdivision three of section twelve hundred eighty-five of this title,

provided, however, any such contract providing for the collection and conveyance of storm waters by means of storm water collecting systems owned and constructed by the corporation shall expressly provide for the vesting of title to such storm water collecting system in such municipality in accordance with the provisions of paragraph (c) of said subdivision three of section twelve hundred eighty-five of this title, and that such storm water collecting system shall be operated and maintained by such municipality upon such terms and conditions as the corporation shall determine to be reasonable.

4. The corporation and any state agency having power to operate and maintain air pollution control facilities, water management facilities or storm water collecting systems may enter into a contract with the corporation for the operation and maintenance of air pollution control facilities, water management facilities or storm water collecting systems by the corporation for and on behalf of such state agency; or the corporation and any such state agency may enter into a contract pursuant to which the corporation may provide for the treatment, neutralization and disposal of gaseous wastes and other air pollutants, the furnishing of a public water supply, the collection and conveyance of storm waters by means of air pollution control facilities, water management facilities or storm water collecting systems, as the case may be, owned and constructed by the corporation and operated and maintained by the corporation or for and on behalf of the corporation, by such state agency or by any person as may be approved by the corporation and such state agency. Any such contract or contracts shall be upon such terms and conditions as the corporation and such state agency shall determine to be reasonable, including but not limited to the reimbursement of all costs of planning, financing, construction and operation and maintenance and any claims arising therefrom. No such contract shall be deemed to be a contract for public works or purchase within the meaning of the state finance law.

5. The corporation may make loans to any municipality for the construction of any air pollution control facility, water management facility or storm water collecting system or to any state agency authorized to issue bonds or notes not constituting a debt or liability of the state within the meaning of section eleven of article seven of the state constitution, for the construction of any air pollution control facility, water management facility, or storm water collecting system. The corporation may accept as evidence of the indebtedness of any such municipality or any state agency authorized to issue bonds or notes not constituting a debt or liability of the state within the meaning of section eleven of article seven of the state constitution, only the municipal bonds or notes of such municipality or bonds or notes of such state agency. Any such loans shall be in an amount or amounts not to exceed the cost of construction of any such project required to be financed by the municipality or such state agency. In connection with the making of any such loans, the corporation may fix and collect fees and charges, including but not limited to reimbursement of all costs of financing by the corporation, as the corporation shall determine to be reasonable. Any such loan by the corporation to a state agency as herein provided, shall be subject to the approval of the director of the budget.

§ 1285-b. Additional special powers of the corporation with respect to projects and persons. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers; (1) to extend credit and make loans to a person or persons for the construction or acquisition of a project or for the reimbursement to a person or persons for costs incurred in connection with a project completed or not completed at the time of such credit or loan, which credits or loans may, but need not, be secured by mortgages, contracts or other instruments, upon such terms and conditions as the corporation shall determine reasonable in connection with such credits or loans, and (2) in the exercise of powers granted in this

section in connection with a project for a person or persons, to require the inclusion in any contract, loan agreement or other instrument, of such provisions for the financing of such project and such other financial and other covenants applying to such person or persons, as the corporation may deem necessary or desirable and to do all things and to execute all instruments necessary and desirable in connection therewith. In connection with the extension of any such credit or loan, the corporation may fix and collect such fees and charges, including but not limited to reimbursement of all costs of financing by the corporation as the corporation shall determine to be reasonable. In connection with such extension of credit or loan to such person or persons for the construction or acquisition of a project as provided above, such person or persons shall submit to the corporation an application for the extension of credit or loan as set forth in the application. The corporation may deny such application for any reason it deems appropriate in the public interest. The extension of any such credit or loan is subject to the ability of the corporation to secure the necessary financing and subject to the obtaining by such person or persons of certification by the commissioner of environmental conservation that the project for which such credit or loan is extended is intended to meet or exceed applicable state environmental standards as set forth in law, rules and regulations.

§ 1285-c. Construction, operation and maintenance of industrial hazardous waste treatment, storage and disposal facilities. In addition to its existing powers, the corporation is hereby empowered to construct, operate and maintain industrial hazardous waste treatment, storage and disposal facilities, including plants, works, instrumentalities, or parts thereof, and appurtenances thereto for the collection, conveyance, treatment, exchange and disposal of hazardous wastes provided such a facility receives a certificate of environmental safety and public necessity as provided in title eleven of article twenty-seven of the environmental conservation law and is located on lands in a municipality where such industrial uses are permitted. The corporation may subcontract for the construction or operation of such facility.

§ 1285-d. Studies regarding design, construction and operation of industrial waste treatment, storage and disposal facilities.

1. The purposes of the corporation shall include research and development of technologies for treatment, storage and disposal of industrial hazardous wastes consistent with economic, social and environmental objectives. In carrying out such purposes the corporation shall prepare studies regarding the best technology or systems possible for the design, construction and operation of industrial hazardous waste treatment, storage and disposal facilities including methods to recover materials or energy and to detoxify or neutralize wastes. Studies shall also be made of methods to guarantee long-term maintenance, ownership, monitoring, and environmental soundness of long-term hazardous waste storage and disposal sites. With respect to matters of operation and long-term maintenance, consideration shall be given to the various options for locating such storage and disposal sites and for public or private ownership and for public or private operation consistent with the maximum protection of public health, safety and welfare and the natural environment.

2. Not later than one year from the effective date of this section, the corporation shall submit a report to the governor and the legislature of its studies conducted pursuant to subdivision one of this section.

3. To advise the corporation on technical matters, a technical advisory committee shall be constituted to be composed of the commissioners of transportation, commerce, health and environmental conservation, the secretary of state, and five persons representative of affected industries to

be appointed by the governor with the advice and consent of the senate. Upon dissolution of the hazardous waste disposal advisory committee pursuant to subdivision three of section twelve hundred eighty-five-f of this article, two members of that committee designated by the governor shall become members of the committee established by this subdivision which committee shall be expanded by two members. In exercising its responsibilities, the corporation shall also cooperate and act in conjunction with industrial, commercial, medical, scientific, public interest and educational organizations within the state, and with agencies of the federal government, of the state and its political subdivisions, of other states, and joint agencies thereof.

§ 1285-e. Inactive hazardous waste disposal site remedial programs. In addition to its existing powers, the corporation is hereby empowered to carry out inactive hazardous waste disposal site remedial programs. The corporation may subcontract for the work included in carrying out such programs.

§ 1285-f. Program for ultimate disposal of hazardous wastes.

1. The corporation shall immediately begin preparation of a comprehensive program for the ultimate disposal of hazardous wastes which shall include, but not be limited to, technology, siting and marketing and financing of such a program through the use of revenue bonds or other means. Such program shall be in addition to the study mandated by section twelve hundred eighty-five-d of this article.

2. The corporation shall provide to the governor and the legislature a marketing and feasibility study no later than March first, nineteen hundred eighty. Such study shall include findings and recommendations as to available technology, the desirability of regional disposal sites and the feasibility of generating sufficient revenue to amortize bonds which may be issued in connection with the program. To the extent necessary, the study shall be prepared in consultation with experts in the field of public finance.

3. A hazardous waste disposal advisory committee shall be established to advise the corporation on a comprehensive program for the ultimate disposal of hazardous waste. Such advice shall be rendered in connection with the study required by subdivision one of this section.

(a) The committee shall consist of the commissioners, or their designees, of the departments of health, environmental conservation, commerce, the director of the division of the budget, or his designee, and a maximum of five individuals with recognized expertise in the fields of hazardous waste management and technology or public finance. These five individuals shall be appointed by the governor, one of whom the governor shall designate as chairman.

(b) Each member of the hazardous waste disposal advisory committee shall not receive a salary or other compensation, but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of his or her committee duties.

(c) When the corporation's study is submitted to the governor and the legislature, but in no event later than March first, nineteen hundred eighty, the hazardous waste disposal advisory committee shall be dissolved. However, upon the dissolution of the hazardous waste advisory committee, two appointed members of the committee, expert in the technological aspects of the report, shall become members of the advisory committee, established by subdivision three of section twelve hundred eighty-five-d of this article, the membership of which shall be increased to include seven appointed members.

§ 1285-g. Industrial materials recycling program.

1. Applicability. It is the purpose of this section to establish a program within the corporation to encourage the reduction, recovery and recycling of industrial materials otherwise requiring disposal.

2. Definitions. When used in this section, unless another meaning clearly appears from its context:

a. "Hazardous waste" means a waste which appears on the list or satisfied the criteria promulgated by the commissioner of environmental conservation pursuant to section 27-0903 of the environmental conservation law and until, but not after, the promulgation of such list and criteria means a waste or combination of wastes, which because of its quality, concentration, or physical, chemical or infectious characteristics may:

(i) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed or otherwise managed.

b. "Industrial solid waste" means any garbage, refuse, sludge from a waste treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semisolid, mining and agricultural operations as a result of a commercial or industrial process but does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under article seventeen of the environmental conservation law, or source, special nuclear or by-product material as defined in the Atomic Energy Act of 1954, as amended except as may be provided by existing agreements between the state of New York and the government of the United States.

c. "Industrial material" means hazardous waste and industrial solid waste.

d. "Recovery and recycling" means any method or technique utilized to separate, process, modify, convert, treat, or otherwise prepare industrial materials so that component materials or substances may be used as raw materials or energy sources.

e. "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, state, municipality, commission, political subdivision of a state, or any interstate body.

f. "Generator" means a person whose industrial activities produce industrial material.

3. Industrial materials recycling program. a. The corporation shall undertake and be responsible for a program to encourage industrial materials reduction, recovery and recycling as hereinafter provided. The corporation shall give first priority in such program to hazardous wastes in order to reduce risks to public health and the environment.

b. Such program shall include but not be limited to the following activities:

i. Planning including compilation of, research and development information on industrial methods, technologies and practices that will result in the reduction, recovery or recycling of industrial materials.

ii. Investigation and research into market potential and feasibility for increased utilization of recovered or recycled industrial materials.

iii. Collection, development and maintenance of data on existing and projected production of industrial materials.

iv. Review and analysis of existing industrial methods, technologies and practices relating to the generation, use and disposal of industrial materials.

v. Development and maintenance of a technical reference capability on industrial materials reduction, recovery and recycling methods, technologies and practices including appropriate information available for public and private use.

vi. Encouragement and assistance, within the resources available, to generators and users of industrial materials and to municipalities to reduce, recover or recycle industrial materials, as is feasible and appropriate.

vii. Establishment and maintenance of an information clearing house which shall consist of an ongoing record of industrial materials which may be recycled or recovered. Such record shall include, but is not limited to, the information that is provided in manifest reports required pursuant to section 27-0905 of the environmental conservation law, except that no information including the identities or other identifying information of the individual generators shall be disclosed without the express written consent of the applicable generators. The corporation shall make this information available to persons who desire to recycle or recover industrial materials. The information shall be made available in such a manner as to protect the trade secrets of the generators. Information submitted to the clearing house shall not be subject to disclosure under the freedom of information law as set forth in article six of the public officers law.

viii. Preparation and the continuous update when appropriate of a list of industrial materials which the corporation finds are economically and technically feasible to recycle or recover. Each material shall be categorized according to the degree of difficulty and the kind of difficulty encountered in recycling or recovery of that material.

ix. Preparation, in conjunction with industry, of a handbook on recovery and recycling to be made available to all industries upon request.

x. Coordinate with existing regional entities, public or private, to encourage participation in all elements of the program.

c. The corporation shall coordinate its activities under this section with the department of environmental conservation with such department's responsibilities pursuant to title four of article twenty-seven of the environmental conservation law.

d. The corporation may enter into contracts with private entities for the purpose of having such entities undertake activities called for under this section.

4. Trade secrets; confidentiality. a. The corporation shall ensure that any trade secrets or other proprietary or confidential data or information of a personal nature, required to be utilized pursuant to this section, shall be utilized by the corporation in connection with its respective responsibilities pursuant to this section, and that such trade secrets and other proprietary or confidential data or information are not otherwise disseminated without the express consent of the generator furnishing such information.

b. For the purposes of this section, trade secrets and other proprietary or confidential data or information may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, customer lists, production data, or compilation of information within a commercial concern which is using it to fabricate, produce or compound an article of trade or service having commercial value, and which gives its owner or authorized user an opportunity to obtain a business advantage over competitors who do not know, use or have access to such data and information.

c. For the purposes of this section, due to the unique nature of the program, any generator who claims that specified data or information to be utilized pursuant to any requirement of this section contains trade secrets or other proprietary or confidential data or information of a personal nature may set forth such claims in writing to the corporation for the protection of trade secrets afforded pursuant to this subdivision. Such information shall not be subject to disclosure under the freedom of information law as set forth in article six of the public officers law.

d. The corporation shall have rules of conduct for employees and contractors of the corporation involved in the design, development, operation

and maintenance of any trade secret record-keeping and instruct each such employee or contractor with respect to such rules and the requirements of this subdivision including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance.

e. The corporation shall have appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of trade secret information and records and to protect against any anticipated threats to their security or integrity which could result in their unauthorized disclosure.

5. Improper disclosure of trade secrets or other proprietary or confidential data or information of a personal nature. No officer, employee or contractor of the corporation shall intentionally publish, divulge, disclose or make known in a manner not authorized under the provisions of this section any trade secret or other proprietary or confidential data or information of a personal nature available to him in the course of his employment. Any such official, employee or contractor who violates the provisions of this subdivision shall be liable for a civil penalty not to exceed five thousand dollars. In addition, any official or employee who violates the provisions of this subdivision may be dismissed from his office or employment.

6. Report to the legislature. The chairman of the corporation shall, not later than twelve months after the enactment date of this section and annually thereafter, prepare and submit a report on the status of the reduction, recycling and recovery of industrial materials as facilitated by the provisions of this section to the governor and the legislature. In addition, such report shall include, but not be limited to the quantities, composition and disposition of hazardous waste generated by region in the preceding year and the listing of such wastes feasible to recycle and recover developed pursuant to this section. The chairman of the corporation shall also report on the scope, status and efficacy of the program, including the small quantity generator hazardous waste audit program, and specific recommendations for continuation of the program; provided, however, such chairman shall withhold information on the source or nature of particular industrial materials in such a manner as to protect trade secrets or confidential information of the generators.

7. Small quantity generator hazardous waste audit program. a. The corporation shall establish and be responsible for a small quantity generator hazardous waste audit program. To carry out such program, the corporation is authorized to obtain the services, as necessary, of waste management specialists to conduct waste audits at the facilities of hazardous waste generators that have produced less then one thousand kilograms of hazardous waste in each of the past twelve calendar months. The purpose of such audits shall be to provide on-site technical assistance to aid such generators in complying with New York state's hazardous waste regulations and to identify and evaluate the potential for reducing the amount and/or toxicity of hazardous waste generated at such facilities.

b. Waste audits conducted pursuant to this subdivision may include, but need not be limited to: (i) identification of all hazardous wastes generated at the facility;

(ii) identification of the regulatory requirements associated with the storage, treatment, or disposal of all hazardous wastes generated at the facility;

(iii) identification of any methodologies, processes, equipment, or production changes which could be utilized by the facility to reduce the amount or toxicity of hazardous wastes generated at the facility;

(iv) identification of any on-site recycling or waste treatment technologies which could be utilized to reduce the amount or toxicity of hazardous wastes disposed of by the facility; and

(v) identification of any potential markets for hazardous waste generated by the facility, including the use of waste exchange markets.

c. The corporation shall establish by rule and regulation, upon consultation with the director of the budget, a sliding fee schedule to offset the costs of conducting on-site audits. The fee schedule established pursuant to this section shall be intended to provide revenues sufficient to meet solely the costs incurred by the corporation in performing such audits, provided that the corporation may use technical assistance grants it receives from the federal government, private foundations, or other institutions to reduce or eliminate fees charged generators for performing such audits, and further provided that monies appropriated to the corporation to carry out the purposes of this subdivision shall not be used to provide financial assistance to waste generators for the purchase of manufacturing plants or equipment, property, real or otherwise, engineering or legal services, or any other cost incident to the actual implementation of a waste reduction or management project. The chairman of the corporation is authorized and directed to deposit all monies received in payment of fees under this subdivision in an account within the miscellaneous special revenue fund.

d. Any person receiving audit services pursuant to this subdivision shall, within ninety days of the completion of such audit, submit to the corporation a description of the steps it will take, if any, to implement any recommended waste reduction, recycling, or treatment strategies identified in such audit.

e. In implementing the small quantity generator hazardous waste audit program, the corporation is authorized to: (i) hire or contract with an appropriate number of hazardous waste management specialists to conduct on-site waste audits;

(ii) employ such public information methods as are appropriate to identify and inform eligible hazardous waste generators of the existence of the waste audit program;

(iii) establish a small quantity generator hazardous waste audit program application consistent with the policies and goals of this section; and

(iv) establish by rule and regulation a small quantity generator hazardous waste audit program application evaluation procedure consistent with the policies and goals of this section.

§ 1285-h. Inactive hazardous waste disposal site remedial programs.

1. The corporation and any owner of an inactive hazardous waste disposal site, or any state agency or any person or municipality identified by the commissioner of the department of environmental conservation pursuant to section 27-1313 of the environmental conservation law as responsible for developing and implementing an inactive hazardous waste disposal site remedial program pursuant to section 27-1313 of the environmental conservation law or section thirteen hundred eighty-nine-b of the public health law may enter into a contract for the development and/or implementation of such a program upon such terms and conditions as the corporation shall determine to be reasonable. Such contract shall include payment to the corporation pursuant to the contract. The corporation may subcontract for the development or implementation of such a program.

2. When requested by the owner of an inactive hazardous waste disposal site, or by any state agency or by any person or municipality identified by the commissioner of the department of environmental conservation pursuant to section 27-1313 of the environmental conservation law as responsible for the disposal of hazardous waste at such site, the corporation may advise such owner, state agency, person or municipality on matters relating to the development and implementation of an inactive hazardous waste remedial program and pursuant to a contract with such an owner, state agency, person or municipality may render technical assistance and may undertake research,

planning and testing with respect to any such program. The corporation may make a reasonable charge to any such owner, state agency, person or municipality for the performance of any of the functions authorized by this subdivision.

3. The corporation shall have the authority to contract with the department of environmental conservation to perform necessary work in connection with inactive hazardous waste disposal site remedial programs pursuant to section 27-1313 of the environmental conservation law. Such contract shall include payment to the corporation pursuant to the contract. The corporation may subcontract for the development or implementation of such a program.

§ 1285-i. Commercial and industrial waste audits. a. The corporation shall establish and be responsible for administration of a commercial and industrial waste audit program to help businesses identify and evaluate the potential at their New York facilities for reducing the amount of solid waste generated, increasing new materials recovery programs and otherwise reducing the amount of waste ultimately requiring disposal. The corporation shall in implementing said waste audit program coordinate activities with and actively foster the waste exchange program of the corporation and other waste reduction programs as is appropriate, and is further authorized to obtain the services, as necessary, of waste management specialists to conduct such waste audits.

b. In implementing the commercial and industrial waste audit program, the corporation shall: (i) establish an application process consistent with the rules and regulations of the program;

(ii) establish by rule and regulation a commercial and industrial solid waste audit program application evaluation procedure consistent with the requirements of this section; and

(iii) establish by rule and regulation, upon consultation with the director of the budget, a sliding fee schedule to offset the costs of the audit. The fee schedule established pursuant to this section shall be intended to provide revenues sufficient to meet solely the costs incurred by the corporation in performing such audits. The chairman is authorized and directed to deposit all money received in payment of fees under this section in an account within the miscellaneous special revenue fund.

c. Waste audits conducted pursuant to this section may include but need not be limited to identification of: (i) all waste generated within the facility;

(ii) the regulatory requirements associated with the recovery, reuse or disposal of such waste, and the implications of such requirements for various reduction and reuse options;

(iii) any methodologies, processes, equipment, or production changes that could be utilized to reduce the amount of waste generated and consumer waste resulting from the product, process or service manufactured, distributed or sold;

(iv) on site recycling or waste treatment technologies that could be utilized to reduce the need for waste disposal capacity;

(v) potential markets for waste generated by the facility, including local materials recycling programs, and the ability of such markets to readily absorb the wastes generated by such facility; and

(vi) economic practicality of alternative waste reduction strategies.

d. Any person for whom a waste audit is prepared shall within one hundred eighty days submit to the corporation findings with respect to the report and the status of steps to implement any recommended strategies identified in such audit.

e. Beginning January first, nineteen hundred eighty-nine, the chairman shall make an annual report concerning the activities undertaken pursuant to this section which shall include, at a minimum (i) the number of businesses

which received assistance, (ii) the nature of assistance provided through the programs, (iii) needs and problems confronted by such businesses in establishing and implementing programs, and (iv) the number of businesses which applied for assistance. The chairman shall submit to the director of the division of the budget, the chairman and the ranking minority member of the senate finance committee and the chairman and the ranking minority member of the assembly ways and means committee an evaluation of the program prepared by an entity independent of the authority. Such evaluation shall be submitted by September first, nineteen hundred ninety and by September first every two years thereafter.

§ 1285-j. Water pollution control revolving fund. 1. (a) The corporation shall undertake and provide assistance in support of the program to make financial assistance available to municipalities to encourage and support the planning, development and construction of municipal water pollution control projects in accordance with the provisions of this section, section 17-1909 of the environmental conservation law, and to make financial assistance available to eligible borrowers through linked deposits made in accordance with article sixteen of the state finance law.

(b) There is hereby established in the custody of the corporation a special fund to be known as the water pollution control revolving fund. Moneys in the water pollution control revolving fund shall be segregated from all other funds of or in the custody of the corporation subject to any rights of holders of corporation bonds or notes issued for the purposes of this section. Moneys in the water pollution control revolving fund shall only be used in accordance with the provisions of this section and section 17-1909 of the environmental conservation law. The moneys in such fund shall be applied to or paid out for authorized purposes of such fund on the direction of the chairman of the corporation in accordance with subdivision four of this section and section 17-1909 of the environmental conservation law, or such other person as the corporation shall authorize to make such direction. In consultation with the director of the division of the budget, the corporation may, subject to subparagraph (ii) of paragraph a of subdivision seven of section 17-1909 of the environmental conservation law, and shall, at the direction of the commissioner of environmental conservation pursuant to such subdivision, establish within the water pollution control revolving fund additional accounts or subaccounts and specify any conditions applicable to the transfer of moneys between such accounts or subaccounts. With respect to each eligible project, the corporation shall establish and maintain a record of the allocation provided for the benefit of such project in accordance with the terms of the applicable project financing agreement or loan agreement.

2. As used in this section, the terms "allocation", "construction", "eligible project", "fund", and "project financing agreement" shall have the meanings set forth in section 17-1909 of the environmental conservation law.

3. Such fund shall consist of all of the following: (a) federal capitalization grants and awards or other federal assistance provided pursuant to Title II or Title VI of the Federal Water Pollution Control Act, exclusive of any such grants, awards or assistance available under Title II, except as may be necessary to avoid the loss to New York state of any unobligated Title II money which can not be made available as a grant or grant increase to a municipality, for purposes of deposit in the fund and appropriated by the state for deposit therein, (b) federal capitalization grants and awards or other federal assistance provided pursuant to, or for the purposes of, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), (c) moneys appropriated by the state legislature for the purpose of such fund or otherwise transferred by the state for deposit therein by the comptroller as required by law, (d) payments of principal and interest made by

municipalities pursuant to loan or other agreements entered into pursuant to subdivisions eight and nine of this section: provided, however, if such loans were financed by the issuance of bonds or notes of the corporation, deposit of such payments into the fund shall be subject to the rights of the holders of such bonds or notes to receive such moneys,(e)investment earnings on amounts in such fund, (f) any other payments received from municipalities pursuant to a loan or other agreement made pursuant to subdivisions eight and nine of this section for costs of managing and administering the program, (g) the proceeds of bonds or notes issued by the corporation for purposes of providing financial assistance to municipalities, (h) the balance of any fees or penalties paid pursuant to the terms and conditions of a compliance or enforcement agreement for violations of the federal Marine Protection, Research and Sanctuaries Act, as amended (33 U.S.C. §§ 1401 et seq.), occurring prior to December thirty-first, nineteen hundred ninety-four, after payment has been made to the administrator of the United States environmental protection agency, a trust account, the ocean dumping alternatives account, and (i) the balance of any amount in a trust account or, if applicable, municipal trust accounts of the clean oceans fund upon a finding by the administrator of the United States environmental protection agency that fees or penalties were not paid into such trust account or municipal trust account as required by the Marine Protection, Research, and Sanctuaries Act, or an applicable compliance or enforcement agreement.

4. Moneys in the water pollution control revolving fund shall be applied by the corporation to provide financial assistance to municipalities for construction of eligible projects and, upon consultation with the director of the division of the budget and the commissioner, for such other purposes permitted by the Federal Water Pollution Control Act, as amended, and to provide for the administrative and management costs of the program. All moneys from federal capitalization grants and awards or other federal assistance made available pursuant to, or for the purposes of, the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), which are deposited into the water pollution control fund pursuant to subdivision three of this section, and any corresponding state match moneys, may be used by the corporation for the purposes permitted by the Omnibus Consolidated Rescissions and Appropriations Act of 1996 (Pub. L. 104-134) or wet weather quality grants as provided in the Consolidated Appropriations Act of 2001 (Pub. L. 106-554), and for no other purposes. As used in this section "financial assistance to municipalities" means any one or more of the following:

(a) making loans to municipalities for construction of eligible projects, provided such loans (i) are made at market or below market rates, (ii) do not have a final maturity of more than twenty years following scheduled completion of the eligible project, (iii) have principal and interest payments which commence not later than one year after scheduled completion of the eligible project, and (iv) require the municipality to establish a dedicated source of revenue (which may be a general obligation of the municipality); unless otherwise determined by the corporation or directed by the commissioner of environmental conservation pursuant to subdivision eight of section 17-1909 of the environmental conservation law, the corporation shall make such loans only from the proceeds of the corporation's bonds or notes issued for purposes of this section;

(b) buying or refinancing debt obligations of municipalities at market or below market rates, if work was commenced and debt was incurred for the eligible project after March seventh, nineteen hundred eighty-five;

(c) guarantying, or purchasing insurance or other credit enhancement for municipal obligations where such action would improve credit market access for or reduce interest rates on such municipal obligations;

(d) providing a source of revenue or security for payment of principal and interest on bonds or notes issued by the corporation if the proceeds of the sale of such bonds or notes will be deposited in the fund;

(e) providing interest rate subsidy allocations to subsidize loans to municipalities made from the proceeds of the corporation's bonds or notes;

(f) using investment earnings on moneys in the fund to pay, pursuant to subdivision seven of this section, the costs of the corporation and the department of environmental conservation of administering and managing the program described in this section and section 17-1909 of the environmental conservation law.

5. The corporation shall make payments to the sewage treatment program management and administration fund in accordance with subdivision seven of this section to reimburse such fund for expenditures made pursuant to appropriation to pay the cost of the corporation and the department of environmental conservation for administering and managing the water pollution control revolving fund program established in section ninety-seven-l of the state finance law, for such costs. Such reimbursement shall be made from (a) available investment earnings on all amounts in the water pollution control revolving fund excluding all amounts in the fund which are the subject of allocations or other financial assistance to a municipality; and (b) payments received from a municipality for such purpose pursuant to a project financing agreement or loan agreement; and (c) if the sources of revenue described in this paragraph and paragraphs (a) and (b) of this subdivision are or are anticipated to be insufficient, then from the proceeds of federal capitalization grants, awards or assistance appropriated to the fund for administration and management of such program. Notwithstanding the foregoing, if the sources of revenues described in paragraphs (a), (b) and (c) of this subdivision are at any time insufficient to make a reimbursement to the state pursuant to this subdivision when due, the corporation shall make such reimbursement from any other available amounts in the water pollution control revolving fund, excluding all amounts that are the subject of allocations, provided, that the amounts paid from fund sources other than those described in paragraphs (a), (b) and (c) of this subdivision shall be reimbursed upon a determination by the director of the budget that future revenues obtained from sources described in paragraphs (a), (b) and (c) of this subdivision are in excess of the amounts reasonably needed to make future reimbursements pursuant to this subdivision.

* 6. Moneys in the water pollution control revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested (a) in investment agreements continuously secured by obligations with any insurance or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if, (i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law, (ii) such obligations are delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust relating to bonds or notes of the corporation, to the trustee under such indenture, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder, (iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, as applicable, and (iv) such obligations are free and clear of

adverse third party claims, or (b) in obligations as set forth in section ten of the general municipal law that are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective until September 30, 2008

* 6. Moneys in the water pollution control revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested (a) in investment agreements continuously secured by obligations with any insurance or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if, (i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law, (ii) such obligations are delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust relating to bonds or notes of the corporation, to the trustee under such indenture, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder, (iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, as applicable, and (iv) such obligations are free and clear of adverse third party claims, or (b) in obligations the interest on which is excludable from gross income under section one hundred three of the internal revenue code, provided that such obligations are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective September 30, 2008

7. The corporation shall transfer to the sewage treatment program management and administration fund established pursuant to section ninety-seven-l of the state finance law no less frequently than semi-monthly amounts from the fund sufficient to reimburse the sewage treatment program management and administration fund in accordance with the provisions of subdivision five of this section.

8. In addition to the powers of the corporation granted elsewhere in this chapter, the corporation shall have the power to enter into project financing agreements authorized by section 17-1909 of the environmental conservation law. Notwithstanding the powers granted to the corporation elsewhere in this title, the corporation's power to finance eligible projects from the fund is limited to eligible projects for which project financing agreements have been executed pursuant to section 17-1909 of the environmental conservation law.

9. In addition to the powers granted to the corporation elsewhere in this chapter, the corporation may make loans to municipalities for purposes of financing eligible projects for which the fund may be used, subject to the limitations of subdivision eight of this section, may accept the obligations of any municipality as security for the repayment of a loan to such municipality, and may assign and pledge such municipal obligations and loan agreements for the benefit of the holder of obligations of the corporation from the proceeds of which such loans are made. Loan proceeds may be disbursed to a municipality in accordance with such restrictions as may be imposed by the corporation in connection with such loan or obligations of the corporation from the proceeds of which such loan is made.

10. The corporation is authorized to arrange for any audits required by law for the purpose of issuing its bonds or notes to provide financial assistance to municipalities, and provide for the implementation of any

independently conducted reviews or audits arranged pursuant to subdivision seven of section 17-1909 of the environmental conservation law.

11. In the event a municipality shall fail to make any payment due the corporation pursuant to any loan agreement, financing agreement, or other obligation of the municipality sold to the corporation or issued as security for the undertaking of the municipality thereunder, the corporation shall certify to the comptroller, and notify the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the director of the division of the budget and the governing body of the municipality that such municipality has failed to make such payment. Such certificate shall be in such form as may be determined by the corporation provided such certificate shall specify the exact amount of debt service and surcharge, if applicable, required to satisfy such municipality's unpaid obligation. The comptroller, upon receipt of such certificate from the corporation, is authorized to and shall, to the extent not otherwise prohibited by law and subject to any other provision of law providing for withholding of payments to the municipality which take precedence over this subdivision, withhold from such municipality the next succeeding payments of state aid or local assistance otherwise payable to it to the extent necessary to meet the certified amount of debt service and surcharge, if applicable, due the corporation and shall immediately pay over to the corporation as a debt service payment on behalf of such municipality the amount so withheld.

12. (a) Notwithstanding the provisions of any general or special law to the contrary, the commissioner of environmental conservation on behalf of the state and the corporation, subject to the approval of the director of the budget, are each hereby authorized to enter into a state revolving fund service contract or contracts providing for the administration of the water pollution control revolving fund and the financing by the corporation of the contributions made by the state to the water pollution control revolving fund. Any such contract or contracts shall be upon such terms and conditions as the corporation and the commissioner of environmental conservation shall determine to be reasonable, including, but not limited to, provisions relating to the respective obligations of the state and the corporation with respect to the administration of the water pollution control revolving fund and provisions providing for the payment of (i) all fees and other charges of, and expenses incurred by, the corporation in connection with the issuance and administration of special obligation bonds to provide funds to the state or reimburse the state for contributions to the water pollution control revolving fund and (ii) all debt service payments on such bonds.

(b) Any such contract entered into pursuant to paragraph (a) of this subdivision shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefore and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(c) Any such contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes issued for the purpose of financing the state contribution to the water pollution control revolving fund.

(d) The comptroller is hereby authorized to receive from the corporation any portion of special obligation bond proceeds paid to provide funds to or reimburse the state for its contribution to the water pollution control revolving fund and to credit such amounts to the capital projects fund or any other appropriate fund.

13. In addition to the powers granted to the corporation in this section, the corporation is authorized to exercise the powers, perform the

responsibilities and take the actions assigned to it under section 17-1909 of the environmental conservation law.

§ 1285-k. Financing of the design, acquisition, construction, improvement and installation of Riverbank Park. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers:

1. Notwithstanding the provisions of any law to the contrary, the corporation and any state agency, subject to the approval of the director of the budget, may enter into a contract for financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park, for and on behalf of such state agency; and the corporation and any state agency may enter into a contract, lease, easement, license or other instrument pursuant to which the corporation shall make all or any portion of Riverbank Park available to such agency, for use as a park. Any such contract or contracts, lease, easement, license or other instrument shall be upon such terms and conditions as the corporation and the subject state agency shall determine to be reasonable, including, but not limited to, the payment of, or reimbursement to the corporation for, (a) all costs of the corporation in financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park, and any claims arising therefrom, (b) all fees and other charges of, and all expenses incurred by, the corporation in connection with the issuance and administration of any bonds or notes issued by the corporation for such purpose, and (c) amounts sufficient to pay all principal, premium, if any, and interest on such bonds or notes. Such payment or reimbursement may be made annually or otherwise, may be in fixed amounts or based on any factors or other matters, or may be made in any other manner, as such contract or contracts shall provide.

2. Any contract, lease, easement, license or other instrument entered into by the corporation pursuant to subdivision one of this section may be assigned or pledged by the corporation as security for its bonds or notes issued for the purpose of financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park.

3. The corporation, any state agency, the city of New York or any agency or instrumentality thereof, may enter into any leases, easements, licenses, or other instruments, for the purpose of granting to the corporation any interest in real property which the corporation shall deem necessary for the purpose of financing the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park.

4. Notwithstanding the provisions of subdivision one of this section, any contract, lease, easement, license or other instrument entered into by the corporation with any state agency, pursuant to subdivision one of this section, shall (a) provide that the obligation of the state or such state agency to pay the amounts therein provided shall not constitute a debt of the state within the meaning of any constitutional or statutory provision, and (b) be deemed executory only to the extent moneys are available, and provide that the obligation of the state or such state agency to make payments thereunder is subject to annual appropriation by the legislature.

§ 1285-l. State park infrastructure projects. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers:

1. Notwithstanding the provisions of any general or special law to the contrary, the office of parks, recreation and historic preservation or the division of the budget, with the approval of the director of the budget, and the corporation are each hereby authorized to enter into a contract or contracts providing for the financing of the design, acquisition, construction, improvement and installation of all or any portion of any state park infrastructure project or reimbursement to the state for costs incurred

in connection with a state park infrastructure project for and on behalf of the state; and the corporation and the office of parks, recreation and historic preservation or the division of the budget, with the approval of the director of the budget, may enter into a contract, lease, easement, license or other instrument pursuant to which the corporation shall make all or any portion of any state park infrastructure project available to such state agency. Any such contract or contracts, lease, easement, license or other instrument shall be upon such terms and conditions as the corporation and the state shall determine to be reasonable, including, but not limited to, the payment of or reimbursement to the corporation for (a) all costs of the corporation in financing all or any portion of any state park infrastructure project, and any claims arising therefrom, (b) all fees and other charges of, and all expenses incurred by, the corporation in connection with the issuance and administration of any bonds or notes issued by the corporation for such purpose, and (c) amounts sufficient to pay all principal, premium, if any, and interest on such bonds or notes. Such payment or reimbursement may be made annually or otherwise, may be in fixed amounts or based on any factors or other matters, or may be made in any other manner, as such contract or contracts, lease, easement, license or other instrument shall provide. Provided, however, that the net proceeds of any such bonds or notes issued shall not exceed sixteen million dollars, not including issuance costs, capitalized interest and debt service reserve funds.

2. Any such contract or contracts, lease, easement, license or other instrument entered into pursuant to subdivision one of this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefor and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

3. Any such contract or contracts, lease, easement, license or other instrument or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes issued for the purpose of financing all or any part of any state park infrastructure project.

4. The corporation and the office of parks, recreation and historic preservation or the division of the budget, with the approval of the director of the budget, may enter into any leases, easements, licenses or other instruments for the purpose of granting to the corporation any interest in real property which the corporation shall deem necessary for the purpose of financing the design, acquisition, construction, improvement and installation of all or any portion of any state park infrastructure project. The corporation shall hold any such interest in real property in trust for the state, shall make and keep such properties accessible to the public, and shall not sell, lease, exchange or donate such properties except to the state.

5. The comptroller is hereby authorized to receive from the corporation any portion of special obligation bond proceeds paid to provide funds for or reimburse the state for its costs associated with any state park infrastructure project and to credit such amounts to the capital projects fund or any other appropriate fund.

§ 1285-m. Drinking water revolving fund. 1. (a) The corporation shall undertake and provide assistance in support of the program to make financial assistance available to recipients to encourage and support the planning, development and construction of water supply facilities in accordance with the provisions of this section and title four of article eleven of the public health law.

(b) There is hereby established in the custody of the corporation a special fund to be known as the drinking water revolving fund. Except as otherwise provided by this paragraph, moneys in the drinking water revolving fund shall be segregated from all other funds of or in the custody of the corporation subject to any rights of holders of corporation bonds or notes issued for the purposes of this section. Moneys in the drinking water revolving fund shall only be used in accordance with the provisions of this section and title four of article eleven of the public health law; provided that, in addition, to the extent permitted by federal or state law, moneys in the drinking water revolving fund may be transferred to and used for the purposes authorized for the water pollution control revolving fund, and moneys in the water pollution control revolving fund may be transferred to and used for the purposes authorized for the drinking water revolving fund. The moneys in the drinking water revolving fund shall be applied to or paid out for authorized purposes of such fund in accordance with subdivision four of this section and title four of article eleven of the public health law. To the extent approved by the commissioner of health and the commissioner of environmental conservation and notwithstanding the provisions of paragraph (a) of this subdivision, moneys in the drinking water revolving fund and in the water pollution control revolving fund may be held together; provided that all such moneys are segregated from all other funds of or in the custody of the corporation subject to any rights of holders of corporation bonds or notes issued for the purposes of this section; provided further, that the corporation shall establish and maintain or cause there to be established and maintained a system of tracking the application of such moneys to the purposes of this section. The corporation may establish within the drinking water revolving fund additional accounts or subaccounts and specify any conditions applicable to the transfer of moneys between such accounts or subaccounts. With respect to each eligible project, the corporation shall establish and maintain a record of the allocation provided for the benefit of such project in accordance with the terms of the applicable financing agreement.

2. As used in this section, the terms "allocation", "construction", "eligible project", "fund" and "financing agreement" shall have the meanings set forth in section eleven hundred sixty of the public health law.

3. Such fund shall consist of all of the following: (a) the proceeds of bonds or notes issued by the state pursuant to the Clean Water/Clean Air Bond Act of 1996; provided that up to two hundred sixty-five million dollars ($265,000,000) of such proceeds shall be available to finance state assistance payments in the manner set forth in paragraphs (a), (d), (e), (f) and (g) of subdivision four of this section, and up to ninety million dollars ($90,000,000) shall be available to finance state assistance payments in the manner set forth in paragraphs (d), (f) and (h) of subdivision four of this section;

(b) federal capitalization grants and awards or other federal assistance provided pursuant to the federal safe drinking water act for purposes of deposit in the fund and appropriated by the state for deposit therein;

(c) moneys appropriated by the state legislature for the purpose of such fund or otherwise transferred by the state for deposit therein by the comptroller as required by law;

(d) payments of principal and interest made by recipients pursuant to loan or other financing agreements entered into pursuant to subdivisions eight and nine of this section; provided, however, if financial assistance made pursuant to financing agreements were financed by the issuance of bonds or notes of the corporation, deposit of such payments into the fund shall be subject to the rights of the holders of such bonds or notes to receive such moneys;

(e) investment earnings on amounts in such fund; and

(f) the proceeds of bonds or notes issued by the corporation for purposes of providing financial assistance to recipients.

4. Moneys in the drinking water revolving fund shall be applied by the corporation in accordance with this section and title four of article eleven of the public health law to provide financial assistance to recipients for construction of eligible projects and, upon consultation with the director of the division of the budget, for such other purposes permitted by the federal safe drinking water act, as amended, and to provide for the administrative and management costs of the program, provided however, that proceeds of bonds issued pursuant to the Clean Water/Clean Air Bond Act of 1996, other than proceeds of bonds used to finance the state match for federal capitalization grants for the drinking water revolving fund, shall not be used for administrative and management costs; and provided further, that proceeds of bonds issued pursuant to the Clean Water/Clean Air Bond Act of 1996, other than proceeds of bonds issued to finance the state match for federal capitalization grants for the drinking water revolving fund, shall not be used to finance costs with respect to the Croton filtration project. As used in this section "financial assistance to recipients" means any one or more of the following:

(a) making loans to recipients for construction of eligible projects on such terms as the corporation may determine, subject to any applicable provisions of federal or state law;

(b) buying or refinancing debt obligations of recipients at market or below market rates, subject to any applicable provisions of federal or state law;

(c) guarantying, or purchasing insurance or other credit enhancement for municipal obligations where such action would improve credit market access for or reduce interest rates on such municipal obligations;

(d) providing a source of revenue or security for payment of principal and interest on bonds or notes issued by the corporation if the proceeds of the sale of such bonds or notes will be deposited in the fund;

(e) providing interest rate subsidy allocations to subsidize loans to recipients made from the proceeds of the corporation's bonds or notes;

(f) paying, pursuant to subdivision seven of this section, the costs of the corporation and the department of health of administering and managing the program described in this section and title four of article eleven of the public health law and paying the costs of the corporation and the department of health of providing technical assistance with respect to such program; provided, however, that proceeds of bonds issued pursuant to the Clean Water/Clean Air Bond Act of 1996, other than proceeds of bonds used to finance the state match for federal capitalization grants for the drinking water revolving fund, shall not be used for such costs;

(g) paying up to seventy-five percent of the principal on loans made to recipients under financing agreements if the corporation determines that the recipient would be unable to carry out the eligible project financed with such loan without creating a financial hardship on system users and without the subsidy afforded by such payment of principal, provided that (i) the amounts applied to such purpose shall be paid from interest earned on funds deposited in the fund and from interest received on other loans made from the fund, (ii) the amounts so applied shall not exceed, in the aggregate, the interest earnings received by the fund on fifty percent of the amounts deposited to the fund, and (iii) in accordance with regulations to be promulgated by the corporation, preference shall be given to small and rural communities in providing such principal subsidies; or

(h) making state assistance payments for the state share of the cost of an eligible project from up to ninety million dollars ($90,000,000) of the proceeds of state bonds and notes issued pursuant to the Clean Water/Clean Air Bond Act of 1996; provided that, in accordance with regulations to be promulgated by the corporation, preference shall be given to recipients which

would be unable to carry out such eligible projects in the absence of such state assistance payments without creating a financial hardship on system users.

5. The corporation may make payments to the state in accordance with subdivision seven of this section to reimburse the state for expenditures made pursuant to appropriation to pay the cost of the corporation and the department of health for administering and managing the drinking water revolving fund program, including provision of technical assistance. Such reimbursement may be made from:

(a) available investment earnings on all amounts in the drinking water revolving fund excluding all amounts in the fund which are the subject of allocations or other financial assistance to a recipient;

(b) payments received from a recipient for such purpose; and

(c) the proceeds of federal capitalization grants, awards or assistance available for administration and management of such program. Notwithstanding the foregoing, if the sources of revenues described in paragraphs (a), (b) and(c)of this subdivision are at any time insufficient to make a reimbursement to the state pursuant to this subdivision when due, the corporation may make such reimbursement from any other available amounts in the drinking water revolving fund, excluding all amounts that are the subject of allocations, provided, that the amounts paid from fund sources other than those described in paragraphs (a), (b) and (c) of this subdivision shall be reimbursed upon a determination by the director of the budget that future revenues obtained from sources described in paragraphs (a), (b) and (c) of this subdivision are in excess of the amounts reasonably needed to make future reimbursements pursuant to this subdivision.

* 6. Moneys in the drinking water revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested:

(a) in investment agreements continuously secured by obligations with any insurance company or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if such investment agreement provides that:

(i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law;

(ii) such obligations are to be delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust or trust agreement relating to bonds or notes of the corporation, to the trustee under such indenture or trust agreement, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder;

(iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, such trustee or such depository as applicable; and

(iv) such obligations are free and clear of adverse third party claims; or

(b) in obligations as set forth in section ten of the general municipal law that are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective until September 30, 2008

* 6. Moneys in the drinking water revolving fund may be invested as provided in subdivision four of section twelve hundred eighty-four of this title and may be further invested:

(a) in investment agreements continuously secured by obligations with any insurance company or reinsurance company or corporate affiliate thereof rated by a nationally recognized rating agency in one of its two highest categories, any bank, trust company or broker or dealer, as defined by the securities exchange act of 1934, which is a dealer in government bonds, which reports to, trades with and is recognized as a primary dealer by a federal reserve bank and is a member of the securities investors protection corporation, if such investment agreement provides that:

(i) such obligations securing such investment agreements are obligations as set forth in section ten of the general municipal law;

(ii) such obligations are to be delivered to a trustee for the benefit of the corporation or, with respect to moneys pledged under an indenture of trust or trust agreement relating to bonds or notes of the corporation, to the trustee under such indenture or trust agreement, or are supported by a safe keeping receipt issued by a depository satisfactory to the corporation as applicable, provided that such investment agreements must provide that the value of the underlying obligations shall be maintained at a current market value, calculated no less frequently than monthly, of not less than the amount deposited thereunder;

(iii) a prior perfected security interest in the obligations which are securing such agreement has been granted to the corporation, such trustee or such depository as applicable; and

(iv) such obligations are free and clear of adverse third party claims; or

(b) in obligations the interest on which is excludable from gross income under section one hundred three of the internal revenue code, provided that such obligations are rated by a nationally recognized rating agency in one of its two highest rating categories.

* NB Effective September 30, 2008

7. The corporation shall transfer to the state on such schedule as the corporation and the department of health shall agree amounts from the fund to reimburse the state in accordance with the provisions of subdivision five of this section.

8. In addition to the powers of the corporation granted elsewhere in this chapter, the corporation shall have the power to enter into loan and other financing agreements authorized by title four of article eleven of the public health law. Notwithstanding the powers granted to the corporation elsewhere in this title, the corporation's power to finance eligible projects from the fund is limited to eligible projects for which financing agreements have been executed pursuant to title four of article eleven of the public health law.

9. In addition to the powers granted to the corporation elsewhere in this chapter, the corporation may make loans or other financial assistance to recipients for purposes of financing eligible projects for which the fund may be used, subject to the limitations of subdivision eight of this section, may accept the obligations of any recipient as security for the repayment of a loan to such recipient, and may assign and pledge such recipient obligations and financing agreements for the benefit of the holders of obligations of the corporation. Loan proceeds or other financial assistance may be disbursed to a recipient only in connection with facilities that have been certified by the commissioner of health as constituting an eligible project and in accordance with other restrictions as may be imposed in connection with such loan or obligations of the corporation from the proceeds of which such loan is made.

10. The corporation is authorized to arrange, in consultation with the department of health, for any audits required by law for the purpose of

issuing its bonds or notes to provide financial assistance to recipients, and provide for the implementation of any independently conducted reviews or audits arranged pursuant to subdivision two of section eleven hundred sixty-six of the public health law.

11. In the event a municipality participating in the drinking water revolving fund program shall fail to make any payment due the corporation pursuant to any financing agreement or other obligation of the municipality sold to the corporation or issued as security for the undertaking of the municipality thereunder, the corporation shall certify to the comptroller, and notify the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the director of the division of the budget and the governing body of the municipality that such municipality has failed to make such payment. Such certificate shall be in such form as may be determined by the corporation provided such certificate shall specify the exact amount of debt service and surcharge, if applicable, required to satisfy such municipality's unpaid obligation. The comptroller, upon receipt of such certificate from the corporation, is authorized to and shall, to the extent not otherwise prohibited by law and subject to any other provision of law providing for withholding of payments to the municipality which takes precedence over this subdivision, withhold from such municipality the next succeeding payments of state aid or local assistance otherwise payable to it to the extent necessary to meet the certified amount of debt service and surcharge, if applicable, due the corporation and shall immediately pay over to the corporation as a debt service payment on behalf of such municipality the amount so withheld.

§ 1285-n. Issuance and sale of recipient bonds and notes. Notwithstanding subdivision two of section one thousand eighty of this article, or any by-law, rule or regulation requiring the recipient to issue bonds or notes at a public or competitive sale, any recipient of a financing from the corporation pursuant to section twelve hundred eighty-five-j, twelve hundred eighty-five-m or twelve hundred eighty-five-o of this title may validly issue its notes or bonds to the corporation, as evidence of its obligation to repay such financing.

§ 1285-o. Pipeline for jobs fund. The corporation shall undertake to provide financial assistance to recipients to encourage and support the planning, design and construction of eligible projects which provide an economic development benefit to the state.

1. There is hereby established in the custody of the corporation a "pipeline for jobs fund". The purpose of the pipeline for jobs fund shall be to provide financial assistance, as determined by the corporation in consultation with the department of economic development, to recipients for the planning, design and construction of eligible projects.

2. For purposes of this section, and notwithstanding any provision of law to the contrary, as used in this section:

(a) "Construction" means the erection, building, acquisition, alteration, reconstruction, improvement, enlargement or extension of an eligible project; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary thereto.

(b) "Eligible municipality" means any county, city, town or village located within the state.

(c) "Eligible project" means a project intended to create, improve or extend water supply facilities, including, but not limited to, drinking water facilities and cold water supply facilities for economic development purposes on behalf of businesses, which may include projects that may be

eligible for financing under or designed to comply with the requirements of the federal safe drinking water act or other applicable federal laws and state drinking water quality goals and standards.

(d) "Financial assistance" means state assistance payments for the state share of the cost of an eligible project, or any one or more of the following types of financial assistance:

(i) loans to recipients for construction of eligible projects on such terms as the corporation may determine, subject to any applicable provisions of federal or state law;

(ii) buying or refinancing debt obligations of recipients at market or below market rates, subject to any applicable provisions of federal or state law;

(iii) guarantying, or purchasing insurance or other credit enhancement for municipal obligations where such action would improve credit market access for or reduce interest rates on such municipal obligations;

(iv) providing a source of revenue or security for payment of principal and interest on bonds or notes issued by the corporation if the proceeds of the sale of such bonds or notes will be deposited in the fund; and

(v) providing interest rate subsidies from investment earnings on corpus allocations to subsidize loans to recipients made from the proceeds of the corporation's bonds or notes.

(e) "Fund" means the pipeline for jobs fund established by this section.

(f) "Recipient" means any eligible municipality, public utility, public benefit corporation, or person, including any individual, firm, partnership, association, not-for-profit corporation or other corporation organized and existing under the laws of the state or any other state which is empowered to construct and operate an eligible project, or any two or more of the foregoing which are acting jointly in connection with an eligible project.

3. Moneys in the fund shall be segregated from all other funds of or in the custody of the corporation. Moneys in the fund shall be used for any authorized purpose of the fund as provided and in accordance with the provisions of this section.

4. The fund shall consist of: (a) moneys appropriated by the legislature pursuant to a chapter of the laws of nineteen hundred ninety-nine, or any reappropriation thereof, for the purpose of such fund or otherwise transferred by the state for deposit therein by the comptroller as required by law;

(b) payments of principal and interest made by recipients pursuant to loan or other financing agreements entered into pursuant to this section; provided, however, if financial assistance made pursuant to financing agreements is financed by the issuance of bonds or notes of the corporation, deposit of such payments into the fund shall be subject to the rights of the holders of such bonds or notes to receive such moneys;

(c) investment earnings on the amounts in such fund; and

(d) the proceeds of bonds or notes issued by the corporation for purposes of providing financial assistance to recipients.

5. Moneys in the fund may be invested by the corporation in accordance with this title and pursuant to guidelines from time to time issued by the corporation.

6. The corporation shall request applications from recipients to receive financial assistance from the fund for eligible projects. The corporation shall provide a list of the eligible projects and the amounts available for financial assistance to the department of economic development, which department shall recommend to the corporation projects to be financed from the moneys available. In making such recommendations, the department of economic development shall give consideration to eligible projects which have the potential to enhance the state's technology industry development efforts.

7. The corporation shall promulgate regulations, developed in consultation with the commissioner of economic development, the commissioner of environmental conservation and the commissioner of health for the purpose of carrying out its responsibilities under this section, including establishing the criteria and standards for evaluating the projects to be financed and determining the amount and kind of financial assistance to a recipient for an eligible project as well as the terms of any financing agreement evidencing such financial assistance.

8. The provisions of subdivision eleven of section twelve hundred eighty-five-m of this title shall be available to the corporation in the event of a default under any financing agreement entered into by an eligible municipality pursuant to this section.

9. (a) Notwithstanding the provisions of any general or special law to the contrary, the corporation and the director of the budget are hereby authorized to enter into a pipeline for jobs fund service contract or contracts providing for the administration of the pipeline for jobs fund and the financing by such corporation of the contributions made by the state to the pipeline for jobs fund. Any such contract or contracts shall be upon such terms and conditions as the corporation and the director of the budget shall determine to be reasonable, including, but not limited to, provisions relating to the respective obligations of the state and the corporation with respect to providing for the payment of (i) all fees and other charges of, and expenses incurred by, the corporation in connection with the issuance and administration of bonds to provide funds to the state or reimburse the state for contributions to the pipeline for jobs fund and (ii) all debt service payments and related expenses on such bonds.

(b) Any such contract entered into pursuant to paragraph (a) of this subdivision shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available therefore and that no liability shall be incurred by the state beyond the moneys available for such purpose, and that such obligation is subject to annual appropriation by the legislature.

(c) Any such contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes issued for the purpose of financing the state contribution to the pipeline for jobs fund.

(d) The comptroller is hereby authorized to receive from the corporation any portion of bond proceeds paid to provide funds to or reimburse the state for its contribution to the pipeline for jobs fund and to credit such amounts to the capital projects fund.

§ 1285-p. State environmental infrastructure projects. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers:

1. Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, in order to assist the corporation in undertaking the administration and the financing of the design, acquisition, construction, improvement, installation, and related work for all or any portion of any of the following environmental infrastructure projects and for the provision of funds to the state for any amounts disbursed therefor: (a) projects authorized under the environmental protection fund, or for which appropriations are made to the environmental protection fund including, but not limited to municipal parks and historic preservation, stewardship, farmland protection, non-point source, pollution control, Hudson River Park, land acquisition, and waterfront revitalization; (b) department of environmental conservation capital appropriations for Onondaga Lake for certain water quality improvement projects in the same

manner as set forth in paragraph (d) of subdivision one of section 56-0303 of the environmental conservation law; (c) for the purpose of the administration, management, maintenance, and use of the real property at the western New York nuclear service center; and (d) department of environmental conservation capital appropriations for the administration, design, acquisition, construction, improvement, installation, and related work on department of environmental conservation environmental infrastructure projects; and (e) office of parks, recreation and historic preservation appropriations or reappropriations from the state parks infrastructure fund, the director of the division of budget and the corporation are each authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, upon such terms and conditions as the director and the corporation may agree, so as to annually provide to the corporation in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any bonds and notes authorized pursuant to section twelve hundred ninety of this title. Any service contract entered into pursuant to this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes, as authorized pursuant to section twelve hundred ninety of this title.

2. The comptroller is hereby authorized to receive from the corporation any portion of bond proceeds paid to provide funds for or reimburse the state for its costs associated with any state environmental infrastructure projects and to credit such amounts to the capital projects fund or any other appropriate fund.

3. The maximum amount of bonds that may be issued for the purpose of financing environmental infrastructure projects authorized by this section shall be four hundred ninety-two million five hundred thousand dollars, exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by the state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 1285-q. Financing of hazardous waste site remediation projects. In order to effectuate the purposes of this title, the corporation shall have the following additional special powers:

1. Subject to chapter fifty-nine of the laws of two thousand, but notwithstanding any other provisions of law to the contrary, in order to assist the corporation in undertaking the administration and the financing of hazardous waste site remediation projects for payment of the state's share of the costs of the remediation of hazardous waste sites, in accordance with title thirteen of article twenty-seven of the environmental conservation law and section ninety-seven-b of the state finance law, and for payment of state costs associated with the remediation of offsite contamination at significant threat sites as provided in section 27-1411 of the environmental conservation law, pursuant to capital appropriations made to the department of environmental conservation, the director of the division of budget and the corporation are each authorized to enter into one or more service contracts, none of which shall exceed twenty years in duration, upon such terms and

conditions as the director and the corporation may agree, so as to annually provide to the corporation in the aggregate, a sum not to exceed the annual debt service payments and related expenses required for any bonds and notes authorized pursuant to section twelve hundred ninety of this title. Any service contract entered into pursuant to this section shall provide that the obligation of the state to fund or to pay the amounts therein provided for shall not constitute a debt of the state within the meaning of any constitutional or statutory provision and shall be deemed executory only to the extent of moneys available for such purposes, subject to annual appropriation by the legislature. Any such service contract or any payments made or to be made thereunder may be assigned and pledged by the corporation as security for its bonds and notes, as authorized pursuant to section twelve hundred ninety of this title.

2. The comptroller is hereby authorized to receive from the corporation any portion of bond proceeds paid to provide funds for or reimburse the state for its costs associated with any hazardous waste site remediation projects and to credit such amounts to the capital projects fund or any other appropriate fund.

3. The maximum amount of bonds that may be issued for the purpose of financing hazardous waste site remediation projects authorized by this section shall not exceed one billion two hundred million dollars and shall not exceed one hundred twenty million dollars for appropriations enacted for any state fiscal year, provided that the bonds not issued for such appropriations may be issued pursuant to reappropriation in subsequent fiscal years. No bonds shall be issued for the repayment of any new appropriation enacted after March thirty-first, two thousand thirteen for hazardous waste site remediation projects authorized by this section. Amounts authorized to be issued by this section shall be exclusive of bonds issued to fund any debt service reserve funds, pay costs of issuance of such bonds, and bonds or notes issued to refund or otherwise repay bonds or notes previously issued. Such bonds and notes of the corporation shall not be a debt of the state, and the state shall not be liable thereon, nor shall they be payable out of any funds other than those appropriated by this state to the corporation for debt service and related expenses pursuant to any service contracts executed pursuant to subdivision one of this section, and such bonds and notes shall contain on the face thereof a statement to such effect.

§ 1285-r. State beginning farmer program. 1. Notwithstanding the provisions of any general or special law to the contrary, the corporation shall undertake to provide financial assistance to beginning farmers to purchase agricultural land, improvements and other agricultural property at or for any agricultural facility as set forth in this section.

2. For purposes of this section, and notwithstanding any provision of law to the contrary, as used in this section:

(a) "Agricultural facility" shall mean a facility used for the production for sale of crops, livestock and livestock products as those terms are defined in subdivision two of section three hundred one of the agriculture and markets law.

(b) "Beginning farmer" shall mean a person who engages in farming or desires to engage in farming and who qualifies as a first time farmer pursuant to 26 United States code section 147(c)(2).

(c) "Lender" shall mean any state or federally-chartered savings bank, savings and loan association, state or federally chartered savings banks and savings and loan associations, farm credit system institution, or state or federally chartered commercial banks or trust companies authorized to do business in this state.

(d) "Project" shall mean the purchase of agricultural land, improvements and other agricultural property at or for any agricultural facility to be owned and operated by a beginning farmer.

3. The corporation is hereby authorized to enter into any contract, financing or loan agreement, or other instrument in connection with a loan made by a lender to a beginning farmer for a project.

4. In order to effectuate the purposes of this section, the corporation may extend credit to or on behalf of a beginning farmer for the construction or acquisition of a project, or for the reimbursement for costs incurred by a beginning farmer in connection with a project, provided such beginning farmer has received a commitment to receive from a lender a loan or other financial assistance acceptable to the corporation. In the exercise of the powers granted in this section in connection with a project for a beginning farmer, the corporation may require the inclusion in any contract, loan agreement or other instrument of such provisions for the financing of such project and such other financial and other covenants as may apply to such beginning farmers as the corporation may deem desirable and/or appropriate and to do all things necessary to execute any instrument in connection and desirable with such financing.

5. In connection with the issuance of any bond or note issued in connection with or for the beginning farmer program, the corporation may fix and collect any fees and charges, including but not limited to reimbursement of all costs of financing incurred by the corporation, as the corporation shall determine to be reasonable.

6. In connection with the extension of credit and the issuance of a bond or note for the construction or acquisition of a project as provided in this section, a beginning farmer shall submit to the corporation an application for the extension of credit or a loan. The corporation may deny such application for any reason it deems appropriate in the public interest.

7. Any bonds or notes issued to finance the provisions of this section shall be special limited obligations of the corporation payable solely out of the revenue derived from any loan or finance agreement, debt obligation or sales contract, collateral or other property received in connection with the beginning farmer program. All assets and liabilities created through the issuance of bonds or notes under this section shall be separate from all other assets and liabilities of the corporation. The corporation shall have no moral or legal obligation or liability to any beginning farmer or other person under this section except as expressly provided by written contract. No funds in the beginning farmer program may be commingled with any other funds of the corporation.

8. (a) The corporation shall promulgate regulations, developed in consultation with the commissioner of agriculture and markets, for the purpose of carrying out its responsibilities under this section, including establishing the criteria and standards for evaluating the project to be financed and the eligibility of the beginning farmer.

(b) The corporation shall consult with the commissioner of agriculture and markets regarding promotion of the program and agriculturally related questions regarding the program or applications.

§ 1286. Acquisition and disposition of real property.

1. The corporation may acquire, by purchase, gift, grant, transfer, contract or lease, or by condemnation pursuant to the condemnation law, any real property it may deem necessary, convenient or desirable to effectuate the purposes of this title, provided however, that any such condemnation proceedings shall be brought only in the supreme court and the compensation to be paid shall be ascertained and determined by the court without a jury.

2. Where a person entitled to an award in the proceedings to condemn any real property for any of the purposes of this title remains in possession of such property after the time of the vesting of title in the condemnor, the reasonable value of his use and occupancy of such property subsequent to such time as fixed by agreement or by the court in such proceedings or by any

court of competent jurisdiction shall be a lien against such award subject only to the liens of record at the time of vesting of title in the condemnor.

3. Title to all property acquired under this act shall vest in the corporation.

4. Notwithstanding the provisions of any general, special or local law or charter, any municipality, by resolution of its governing body, is hereby empowered without referendum and without the consent of any board, officer or other agency of the state, to sell, lease, lend, grant or convey to the corporation, or to permit the corporation to use, maintain or operate as part of a sewage treatment works or solid waste disposal facility, any real or personal property owned by it, including all or any part of any such facilities, which may be necessary or useful and convenient for the purposes of the corporation and which may be accepted by the corporation. Any such sale, lease, loan, grant, conveyance or permit may be made with or without consideration and for a specified or an unlimited period of time and under any agreement and on any terms and conditions which may be approved by such municipality and which may be agreed to by the corporation in conformity with its contracts with the holders of its bonds and notes, the corporation may enter into and perform any and all agreements with respect to property so accepted by it, including agreements for the operation and maintenance of such property as part of a sewage treatment works, or solid waste disposal facility.

5. The corporation may, whenever it determines that it is in the interest of the corporation, and subject to any existing agreement, dispose of any real property which it determines is not necessary, convenient or desirable for its purposes.

6. The corporation may, whenever it shall determine that it is in the interest of the corporation, rent, lease, or grant easements or other rights in any land or property of the corporation.

§ 1287. Construction contracts. 1. Construction contracts other than for resource recovery facilities let by the corporation shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law, but the corporation in its discretion may assign such contracts for supervision and coordination to the successful bidder for any subdivision of work for which the corporation receives bids. Contracts for resource recovery facilities may be awarded by the corporation in the same manner as by a municipality pursuant to section one hundred twenty-w of the general municipal law.

2. Except in the case of contracts for resource recovery facilities awarded consistent with subdivision one of this section, the corporation shall not award any construction contract involving an expenditure of more than ten thousand dollars except to the lowest bidder who in its opinion is qualified to perform the work required and is responsible and reliable. The lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, including all items in the bid proposal. The lowest bid shall be determined by the corporation on the basis of the gross sum for which the entire work will be performed, arrived at by a correct computation of all items specified in the bid therefor at the unit prices contained in the bid. The corporation may, however, reject any or all bids or waive any informality in a bid if it believes that the public interest will be promoted thereby. The corporation may reject any bid if in its judgment the business and technical organization, plant, resources, financial standing or experience of the bidder, compared with the work to be performed, justifies such rejection.

3. Any construction contract awarded by the corporation shall contain such other terms and conditions, and such provisions for penalties, as the corporation may deem desirable.

4. Notwithstanding the provisions of any other law to the contrary, all contracts for public work awarded by the New York state environmental facilities corporation pursuant to this section shall be in accordance with section one hundred thirty-nine-f of the state finance law.

§ 1288. Co-operation and assistance of other agencies. To avoid duplication of effort and in the interests of economy, the corporation may make use of existing studies, surveys, plans, data and other materials in the possession of any state agency or any municipality or political subdivision of the state. Each such agency, municipality and subdivision is hereby authorized to make the same available to the corporation and otherwise to assist it in the performance of its functions. The officers and personnel of such agencies, municipalities and subdivisions, and of any other government or agency whatever, may serve at the request of the corporation upon such advisory committees as the corporation shall determine to create and such officers and personnel may serve upon such committees without forfeiture of office or employment and with no loss or diminution in the compensation, status, rights and privileges which they otherwise enjoy.

§ 1289. Transfer of officers and employees. Officers and employees of state departments and agencies may be transferred to the corporation and officers and employees of the corporation may be transferred to state departments and agencies without examination and without loss of any civil service status or rights. No such transfer may, however, be made except with the approval of the head of the state department or division involved, the director of the budget and the chief executive officer of the corporation, and in compliance with the rules and regulations of the civil service commission of the state.

§ 1290. Notes and bonds of the corporation. 1. (a) The corporation shall have power and is hereby authorized from time to time to issue its negotiable or non-negotiable bonds and notes in conformity with applicable provisions of the uniform commercial code in such principal amount, as, in the opinion of the corporation, shall be necessary to provide sufficient funds for achieving its purposes, including the acquisition and construction, operation and maintenance of sewage treatment works, sewage collecting systems, solid waste disposal facilities, storm water collecting systems, water management facilities, air pollution control facilities, the removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof and any other project or projects authorized pursuant to the provisions of this title, and paying the cost thereof; the making of loans to persons and, for purposes of sections twelve hundred eighty-five-j, twelve hundred eighty-five-m and twelve hundred eighty-five-o of this title only, to any municipality or recipient for such purposes; the making of loans, providing of financing or extension of credit to or on behalf of beginning farmers for purposes of section twelve hundred eighty-five-r of this title only; the financing of the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park, provided however, that any such bonds or notes issued to finance Riverbank Park shall only be issued in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed pursuant to appropriations or reappropriations under chapter fifty-four of the laws of nineteen hundred ninety-one including any subsequent reappropriation of the unexpended balance of such appropriations or reappropriations for the purpose of Riverbank Park, plus an amount sufficient to fund any debt service reserve fund established by the corporation for the purpose of Riverbank Park and to provide for the payment of fees and other charges and expenses of the corporation in connection with such bonds and notes, which principal amount shall constitute the statutory ceiling on the amount of bonds and notes that can be issued for such purpose; the financing of all or any portion of any state park

infrastructure project or reimbursement of the state for expenditures relating thereto, plus an amount to provide for the payment of fees and other charges and expenses of the corporation in connection with such bonds and notes; the provision of funds to the state for any amounts contributed or to be contributed to the water pollution control revolving fund, the pipeline for jobs fund or the drinking water revolving fund provided, however, that any such bonds or notes issued to provide funds to the water pollution control revolving fund, the pipeline for jobs fund or the drinking water revolving fund shall only be issued in such principal amount as shall be necessary to provide sufficient funds for the repayment of amounts disbursed pursuant to any appropriation or reappropriation enacted for the pipeline for jobs fund or for the payment of the state match for federal capitalization grants for the water pollution control revolving fund or the drinking water revolving fund, plus an amount sufficient to fund any debt service reserve fund and to provide for fees, charges and other costs of issuance, which principal amount shall constitute the statutory ceiling on the amount of bonds and notes that can be issued for such purpose; the financing of any environmental infrastructure projects authorized by section twelve hundred eighty-five-p of this title; the purchase of municipal bonds and notes, and bonds and notes of a state agency, the payment of the cost of any project, the payment of interest on bonds and notes of the corporation, the establishment of reserves to secure such bonds and notes; the provision of working capital and all other expenditures of the corporation incident to and necessary or convenient to carry out its purposes and powers;

(b) The corporation shall have power, from time to time, to issue renewal notes, to issue bonds to pay notes 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 to issue bonds partly to refund bonds then outstanding, and partly for any other purpose. The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. Notwithstanding any statutory ceiling on outstanding bonds, any refunding bonds shall be sold in the amount required to pay or redeem outstanding bonds, to fund any reserve, escrow or payment fund, and to provide for the payment of all fees and other charges and expenses, including costs of issuance, incurred in connection with the issuance of such refunding bonds, provided that the present value of the aggregate debt service on the refunding bonds does not exceed the present value of the aggregate debt service on the bonds refunded thereby.

(c) Except as may otherwise be expressly provided by the corporation, every issue of its notes or bonds shall be (i) general obligations of the corporation payable out of any revenues or monies of the corporation, subject only to any agreements with the holders of particular notes or bonds pledging any particular receipts or revenues, (ii) special obligations of the corporation payable solely from the revenues, service charges, rentals, proceeds or other payments to be received on account of the mortgage, loan or other agreements and payments, reserve and insurance funds or accounts issuance of special obligations, and fees, charges or other monies to be received by the corporation in respect to loans pursuant to section twelve hundred eighty-five-b or twelve hundred eighty-five-j of this title, or from amounts received by the corporation pursuant to any contract, lease, easement, license or other instrument entered into by the corporation pursuant to sections twelve hundred eighty-five-k and twelve hundred eighty-five-l of this title or, (iii) special obligations of the corporation payable solely from amounts received pursuant to an agreement with the commissioner of environmental conservation pursuant to subdivision twelve of section twelve hundred eighty-five-j of this title, and may, but need not, be secured by mortgages, assignments or pledges of such revenues, service charges, rentals, proceeds, other payments, funds and accounts, fees, charges

and other monies, and by mortgages or assignments thereof in respect to projects, and may include pooled financings subject only to any agreements with the holders of particular special obligation notes or bonds issued to finance the cost of, or loans for, a project or projects; no general obligations of the corporation shall be issued to finance the cost of, or loans for, a project or projects authorized to be constructed pursuant to section twelve hundred eighty-five-b or twelve hundred eighty-five-j of this title or to finance (A) the contribution of the state to the water pollution control revolving fund, (B) the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park or (C) state park infrastructure projects and no funds, monies, revenues or other assets of the corporation shall be used for loans authorized pursuant to section twelve hundred eighty-five-b or twelve hundred eighty-five-j of this title, except as may be available with respect to a project and a contract with a person as aforesaid, or for the payment to the state for amounts contributed by the state to the water pollution control revolving fund, to finance the design, acquisition, construction, improvement and installation of all or any portion of Riverbank Park or state park infrastructure projects. Nor shall any special obligation authorized pursuant hereto be payable from or secured by any debt service reserve fund created pursuant to section twelve hundred ninety-one of this title, and the state shall not be entitled to require the redemption of such special obligations pursuant to section twelve hundred ninety-three of this title; and such special obligation and the security therefor shall not be subject to the provisions of section twelve hundred ninety-four of this title but the remedies of the holders thereof shall be set forth in the terms of such special obligations and the instruments constituting such security; the making of loans, providing of financial or extension of credit to or on behalf of beginning farmers for purposes of section twelve hundred eighty-five-r of this title only;

(d) Any bonds or notes issued for the purpose of financing amounts deposited or to be deposited by the state in the water pollution control revolving fund may be issued in an aggregate principal amount sufficient to finance the amount to be paid or reimbursed to the state plus an amount sufficient to fund any debt service reserve fund established by the corporation and to provide for the payment of fees and other charges and expenses of the corporation in connection with such bonds and notes.

(e) Notwithstanding any other law to the contrary, the corporation shall not issue any notes or bonds on behalf of any state department or agency to fund the removal, disposal and remediation of petroleum storage tanks and the remediation of the sites thereof or on behalf of the office of mental health to finance the pilgrim state sewage treatment project, after the thirty-first day of March, nineteen hundred ninety-six. This limitation shall not apply to bonds and notes issued to refund bonds issued for such purposes.

2. The notes and bonds shall be authorized by resolution of the directors of the corporation, shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewals thereof not exceeding twelve years from the date of issue of such original note, and in the case of any such bond not exceeding forty years from the date of issue, as such resolution or resolutions may provide; provided, however, that the final maturity of any bond issued for the purpose of financing any amounts deposited or to be deposited by the state in the water pollution control revolving fund shall not exceed thirty years from the date of issue of such bond. The notes and bonds shall bear interest at such rate or rates which may vary from time to time, be in such denominations, 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 of redemption as such resolution or resolutions

may provide. The notes and bonds of the corporation may be sold by the corporation, at public or private sale, at such price or prices as the corporation shall determine. No notes or bonds of the corporation may be sold by the corporation at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

3. Any resolution or resolutions authorizing any notes or bonds or any issue thereof may contain provisions, which shall be a part of the contract with the holders thereof, as to: (a) pledging all or any part of the rentals, rates, charges and other fees made or received by the corporation and other monies received or to be received from the ownership or operation or otherwise in connection with any project or projects and all or any part of the monies received in payment of principal or interest on bonds or notes of any state agency and municipal bonds or notes acquired by the corporation, to secure the payment of the notes or bonds or of any issue thereof, subject to such agreements with bondholders or noteholders as may then exist;

(b) pledging all or any part of the assets of the corporation including municipal bonds and notes acquired by the corporation in the issuance of general obligations, and in the issuance of special obligations, notes or other evidences of indebtedness of any person acquired by the corporation, and assigning and pledging any mortgages or other security interests acquired by the corporation or any interests of the corporation in properties or revenues or other sums payable to the corporation and any reserve and insurance funds or accounts or other funds and accounts established in connection with the issuance of special obligations to secure the payment of the notes or bonds or of any issue of notes or bonds of general obligations or special obligations, as the case may be, subject to such agreements with noteholders or bondholders as may then exist;

(c) the use and disposition of rentals, rates, charges and other fees made or received by the corporation; (d) the setting aside of reserves or sinking funds and the regulation and disposition thereof from the ownership or operation or otherwise in connection with any project or projects and of the gross income from municipal bonds and notes and bonds and notes of any state agency owned by the corporation;

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

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

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

(h) limitations on the amount of monies to be expended by the corporation for operating, administrative or other expenses of the corporation;

(i) vesting in a trustee or trustees such property, rights, powers and duties in trust as the corporation may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to this title, and limiting or abrogating the right of the bondholders to appoint a trustee under this article or limiting the rights, powers and duties of such trustee;

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

4. In addition to the powers herein conferred upon the corporation to secure its notes and bonds, the corporation shall have power in connection with the issuance of notes and bonds to enter into such agreements as the

corporation may deem necessary, convenient or desirable concerning the use or disposition of its monies or property including the mortgaging of any such property and the entrusting, pledging or creation of any other security interest in any such monies or property and the doing of any act (including refraining from doing any act) which the corporation would have the right to do in the absence of such agreements. The corporation shall have power to enter into amendments of any such agreements within the powers granted to the corporation 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 the notes and bonds of the corporation.

5. It is the intention hereof that any pledge, mortgage or security instrument made by the corporation shall be valid and binding from the time when the pledge, mortgage or security instrument is made; that the monies or property so pledged, mortgaged and entrusted and thereafter received by the corporation shall immediately be subject to the lien of such pledge, mortgage or security instrument without any physical delivery thereof or further act; and that the lien of any such pledge, mortgage or security instrument shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any mortgage, security instrument or other instrument by which a pledge, mortgage lien or other security is created need be recorded or filed and the corporation shall not be required to comply with any of the provisions of the uniform commercial code.

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

7. The corporation, subject to such agreements with noteholders or bondholders as may then exist, shall have power out of any funds available therefor to purchase notes or bonds of the corporation, which shall thereupon be cancelled, at a price not exceeding (a) if the notes or bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment thereon, or (b) if the notes or bonds are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption plus accrued interest to such date.

8. Neither the state nor any municipality shall be liable on notes or bonds issued as general obligations of the corporation and such notes and bonds shall not be a debt of the state or any municipality, and such notes and bonds shall contain on the face thereof a statement to such effect. The state shall not be liable on notes or bonds issued as special obligations of the corporation, and such notes and bonds shall not be a debt of the state and shall be payable solely from the revenues, service charges, rentals, proceeds or other payments to be derived from the extension of credit or the loan for the project for which such notes and bonds were issued, and such notes and bonds shall contain on the face thereof a statement to such effect.

§ 1290-a. Insurance and guarantees. The corporation may obtain from any department or agency of the United States of America any available insurance or guaranty for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds or notes issued by the corporation, but notwithstanding any other provisions of this title may not enter into any agreement or contract with respect to any such insurance or guaranty to the extent that it would in any way impair or interfere with the ability of the corporation to perform and fulfill the terms of any agreement made with the holders of the bonds or notes of the corporation.

§ 1291. Reserve funds and appropriations. 1. The corporation may create and establish one or more reserve funds to be known as debt service reserve funds and may pay into such debt service reserve funds (a) any monies appropriated and made available by the state for the purposes of such funds, (b) any proceeds of sale of notes or bonds, to the extent provided in the resolution of the corporation authorizing the issuance thereof, and (c) any other monies which may be made available to the corporation for the purpose of such funds from any other source or sources. The monies held in or credited to any debt service reserve fund established under this section, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the corporation secured by such debt service reserve fund as the same mature or as payments required by the terms of any contracts therefor as sinking fund payments become due, the purchase of such bonds of the corporation, the payment of interest on such bonds of the corporation or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity; provided however, that the corporation shall have power to provide that monies in any such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year on the bonds of the corporation then outstanding and secured by such debt service reserve fund, except for the purpose of paying any sinking fund payments becoming due and principal of and interest on such bonds of the corporation secured by such debt service reserve fund maturing and becoming due and for the payment of which other monies of the corporation are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred by the corporation to any other fund or account of the corporation and the corporation shall have power to provide that any such transfer shall not reduce the amount of such debt service reserve fund below the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year on all bonds of the corporation then outstanding and secured by such debt service reserve fund.

2. The corporation shall not issue bonds at any time if the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year on the bonds outstanding and then to be issued and secured by a debt service reserve fund will exceed the amount of such debt service reserve fund at the time of issuance, unless the corporation, at the time of the issuance of such bonds, shall deposit in such debt service reserve fund from the proceeds of the bonds so to be issued, or otherwise, an amount which, together with the amount then in such debt service reserve fund, will be not less than the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year on the bonds then to be issued and on all other bonds of the corporation then outstanding and secured by such debt service reserve fund.

3. To assure the continued operation and solvency of the corporation for the carrying out of the public purposes of this title, provision is made in subdivision one of this section for the accumulation in each debt service reserve fund of an amount equal to the maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding calendar year as determined by the corporation on all bonds of the corporation then outstanding and secured by such debt service reserve fund. In order further to assure the maintenance of such debt service reserve funds in the respective amounts provided therefor by the corporation in the issuance of its bonds secured thereby, there shall be annually apportioned and paid to the corporation for deposit in each such debt service reserve fund such amount, if any, as shall be certified by the chief executive officer of the corporation to the governor and director of the budget as

necessary to restore such debt service reserve fund to an amount equal to the maximum amount provided therefor by the corporation as aforesaid. The chief executive officer of the corporation shall annually, on or before December first, make and deliver to the governor and director of the budget his certificate stating the amount, if any, required to restore each debt service reserve fund to the amount aforesaid and the amount or amounts so certified, if any, shall be apportioned and paid to the corporation during the then current state fiscal year. The principal amount of bonds secured by a debt service reserve fund or funds to which state funds are apportionable pursuant to this subdivision shall be limited to the total amount of bonds and notes outstanding on the effective date of this act, plus the total amount of bonds and notes contracted after the effective date of this act to finance projects in progress on the effective date of this act as determined by the New York state public authorities control board created pursuant to section fifty of this chapter whose affirmative determination shall be conclusive as to all matters of law and fact solely for the purposes of the limitations contained in this subdivision, but in no event shall the total amount of bonds so secured by such a debt service reserve fund or funds exceed forty million five hundred thirteen thousand dollars, excluding bonds issued to refund such outstanding bonds until the date of redemption of such outstanding bonds. As outstanding bonds so secured are paid, the amount so secured shall be reduced accordingly but the redemption of such outstanding bonds from the proceeds of refunding bonds shall not reduce the amount so secured.

4. For the purposes of this section, "maximum amount of any sinking fund payments becoming due and principal and interest maturing and becoming due in any succeeding year" means, as of the date of computation, the largest amount of money required in any succeeding year for the payment of interest on and maturing principal of outstanding bonds and payments required by the terms of any contracts to be made to any sinking fund established for the payment or redemption of such bonds, provided that the principal amount of any bonds required to be made to any such sinking fund during any year shall, for the purposes of this definition, be considered as maturing in the year during which such payment is required and not in the year in which the stated maturity of such bonds occurs. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such fund shall be invested shall be valued at par, or if purchased at less than par, at their cost to the corporation.

§ 1292. Agreement of the state. The state does hereby pledge to and agree with the holders of any notes or bonds issued under this title, that the state will not limit or alter the rights hereby vested in the corporation to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes or bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses for which the corporation is liable in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The corporation is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

§ 1293. Right of state to require redemption of bonds. Notwithstanding and in addition to any provisions for the redemption of bonds which may be contained in any contract with the holders of the bonds, the state may, upon furnishing sufficient funds therefor, require the corporation to redeem, prior to maturity, as a whole, any issue of bonds on any interest payment date not less than twenty years after the date of the bonds of such issue at one hundred five per centum of their face value and accrued interest or at such lower redemption price as may be provided in the bonds in case of the redemption thereof as a whole on the redemption date. Notice of such

redemption shall be published in at least two newspapers publishing and circulating respectively in the cities of Albany and New York at least twice, the first publication to be at least thirty days before the date of redemption.

§ 1294. Remedies of noteholders and bondholders. 1. In the event that the corporation shall default in the payment of principal of or interest on any issue of notes or bonds after the same shall become due, whether on any sinking fund payment date, at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the corporation 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 notes or bonds, the holders of twenty-five per centum in aggregate principal amount of the notes or bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such notes or 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 notes or bonds then outstanding shall, in his or its own name;

(a) by suit, action or proceeding in accordance with the civil practice law and rules, enforce all rights of the noteholders or bondholders, including the right to require the corporation to collect rentals, rates, charges and other fees and to collect interest and amortization payments on municipal bonds and notes and bonds and notes of any state agency held by it adequate to carry out any agreement as to, or pledge of, such rentals, rates, charges and other fees and of such interest and amortization payments, and to require the corporation to carry out any other agreements with the holders of such notes or bonds and to perform its duties under this title;

(b) bring suit upon such notes or bonds;

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

(d) by action or suit, enjoin any acts or things which may be in lawful or in violation of the rights of the holders of such notes or bonds;

(e) declare all such notes or 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 notes or bonds then outstanding, to annul such declaration and its consequences.

3. 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 or noteholders in the enforcement and protection of their rights.

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

5. Before declaring the principal of notes or bonds due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the corporation, to the comptroller and to the attorney general of the state.

§ 1295. Notes and bonds as legal investment. The notes and bonds of the corporation are hereby made securities in which all public officers and bodies of the state and all municipalities and political 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, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or who 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. Notwithstanding any other provisions of law, the bonds of the corporation 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 political subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

§ 1296. Exemption from taxation; payments in lieu of taxes. It is hereby found, determined and declared that the creation of the corporation and the carrying out of its purposes is in all respects for the benefit of the people of the state of New York and for the improvement of their health, welfare and prosperity and is a public purpose, and that the corporation will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

1. Real property owned by the corporation shall be exempt from taxation, special ad valorem levies and special assessments.

2. Real property owned by the corporation (1) used for or in connection with any project or projects, (2) which is located outside the boundaries of the contracting municipality or municipalities, and (3) which was subject to taxation, special ad valorem levies, or special assessments on the latest assessment roll finally completed, verified and filed preceding the date of acquisition thereof by the corporation shall be subject to payments in lieu of taxes, special ad valorem levies and special assessments by the corporation in accordance with the provisions of this section.

3. The in lieu payments shall be computed and determined annually by the state board of real property services as follows:

(a) determine the full value of such property as of the applicable taxable status date for the assessment role for which in lieu payments are being computed;

(b) determine the full value of such property as of such taxable status date attributable to improvements constructed or reconstructed by the corporation;

(c) deduct item (b) from item (a);

(d) multiply the full value determined in item (c) by the ratio of assessed value to full value of other property on the same assessment roll;

(e) the result determined in item (d) shall be the approved assessed valuation for such property. The determinations of the full value and the ratio of assessed value to full value shall be determined by the state board.

4. Application for an approved assessed valuation shall be made by the assessor of the assessing unit within which such property is located. Application shall be made as soon as practicable after acquisition of such property by the corporation. The application shall be made on a form approved by the state board of real property services and shall contain such information as such board shall require.

5. Upon approval of such application by the state board the state board shall certify such approved assessed valuation to the assessing unit and to the corporation. The approved assessed valuation shall be entered by the assessor or other local official on the assessment roll with the notation that such property is exempt from taxation, special ad valorem levies and special assessments but qualifies for payments in lieu of taxes, special ad valorem levies and special assessments pursuant to this section. The approved assessed valuation shall be treated for all purposes as taxable assessed valuation and taxable full valuation on the assessment roll for which it is made. Amounts shall be extended against such approved assessed valuation in the same manner and at the same time as taxes, special ad valorem levies or

special assessments are extended against taxable property. The appropriate collecting officer shall transmit a statement of the amounts computed as payable as in lieu of taxes, special ad valorem levies and special assessments to the corporation. The provisions of any general or special law relating to the collection and enforcement of taxes shall not be applicable to property subject to the provisions of this section.

6. The terms "taxation," "special ad valorem levies," "special assessments" and "assessing unit" shall have the same meanings as set forth in section one hundred two of the real property tax law.

7. Notwithstanding any provision to the contrary in this section, in view of the costs of governmental services being provided by public corporations, as defined in the general corporation law, the corporation may pay or may enter into agreements with any public corporation to pay, a sum or sums, annually or otherwise, or to provide other considerations to such public corporation with respect to real property owned by the corporation within the boundaries of such public corporation and used for any project or projects.

8. The corporation shall be required to pay no fees or taxes, whether state or local, including but not limited to fees or taxes on real estate, franchise taxes, sales taxes or other excise taxes, upon any of its property, real or personal, or upon the use thereof, or upon its activities in the operation and maintenance of its facilities or on any rentals, rates, charges or other fees, revenues or other income received by the corporation and that the bonds and notes of the corporation and the income therefrom shall at all times be exempt from taxation, except for gift and estate taxes and taxes on transfers. Nothing contained in this subdivision shall affect the obligation imposed by this section on the corporation to make in lieu payments.

9. This section shall constitute a covenant and agreement with the holders of all bonds and notes issued by the corporation.

§ 1297. Actions against the corporation. 1. As a condition to the consent of the state to such suits against the corporation, in every action against the corporation for damages, for injuries to real or personal property or for the destruction thereof, or for personal injuries or death, the complaint shall contain an allegation that at least thirty days have elapsed since the demand, claim or claims upon which such action is founded were presented to a member of the corporation or other officer designated for such purpose and that the corporation has neglected or refused to make an adjustment or payment thereof.

2. An action against the corporation founded on tort, except an action for wrongful death, shall not be commenced more than one year after the cause of action therefor shall have accrued, nor unless a notice of claim shall have been served on the corporation within the time limited by and in compliance with all the requirements of section fifty-e of the general municipal law. An action against the corporation 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.

3. The corporation may require any person, presenting for settlement on account or claim for any cause whatever against the corporation, to be sworn before a director, counsel or an attorney, officer or employee of the corporation designated for such purpose, concerning such account or claim and when so sworn to answer orally as to any facts relative to such account or claim. The corporation shall have power to settle or adjust all claims in favor of or against the corporation.

4. The rate of interest to be paid by the corporation upon any judgment for which it is liable shall not exceed four per centum per annum.

§ 1298. Title not affected if in part unconstitutional or ineffective. If any provision of any section of this title or the application thereof to any

person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section of this title or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this title are hereby declared to be severable.