

STATE OF CONNECTICUT

OFFERED BY:

ENTITLED: AN ACT ALLOWING THE ESTABLISHMENT OF A MUNICIPAL WATER AUTHORITY.

Sec. 1.

(a) As used in this act, the following words and terms shall have the following meanings unless the context clearly indicates another meaning or intent:

(1) "Authority" means a municipal water authority created under the provisions of this act;

(2) Except as the context otherwise requires, "bonds" means any bonds, notes and other obligations or indebtedness issued by an authority pursuant to the provisions of this act and any bonds whose proceeds are used to refund or defease such bonds;

(3) "Cost" or "costs" as applied to any system means any and all fees, costs and expenses of an authority directly or indirectly related in any manner to the business of the authority, including the acquisition, ownership, lease, operation, management, repair, maintenance, expansion, alteration, conveyance or other disposition of a system, as well as any and all other property of an authority, whether real or personal, tangible or intangible;

(4) "Constituent municipality" means an eligible municipality that has created an authority pursuant to the provisions of this act;

(5) "Eligible municipality" means any consolidated town and city which has a population of more than one hundred thousand people;

(6) "Including" means including, without limitation;

(7) "Municipality" means any town, city, borough, consolidated town and city or consolidated town and borough; and

(8) "System" means plants, structures and any interests in any other property, real or personal, tangible or intangible, acquired, constructed, operated or used in connection with accumulating, supplying or distributing water, including land, reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants and works, connections, rights of flowage or diversion and other plants, structures, conveyances, property, real or personal, tangible or intangible, or rights therein and appurtenances necessary or useful and convenient for the accumulation, supply or distribution of water. Any system owned, leased or operated by an authority shall be considered a municipal waterworks system under chapter 102, with all rights under chapter 102, except as provided otherwise in this act.

(b) Notwithstanding the provisions of any other general statute, special act or municipal charter or ordinance, any eligible municipality may, by ordinance of its legislative body, adopt and exercise the powers granted to an eligible municipality by the provisions of this act and, subject to the provisions of this act, create an authority, which shall be a public corporation, created for the purposes, charged with the duties and granted the powers provided in this act, and, transfer to an authority, by sale, lease, gift or otherwise, all or any portion of a system in accordance with applicable provisions of the constituent municipality's charter and ordinances, including any referendum requirements concerning such transfer, by sale, lease, gift or otherwise, and

in accordance with the provisions of this act; provided, however, that the constituent municipality's charter and ordinance provisions concerning or related to bidding or proposals for sale or lease of the constituent municipality's property shall be inapplicable. The ordinance creating any authority shall contain a brief statement of the purpose of any such authority and shall set forth the articles of incorporation of the authority, as follows: (1) the name of such authority and the initial address of its principal office; (2) a statement that such authority is created as an authority under this act; (3) the number, method of appointment and removal, terms of office and the method of determining compensation, if any, of the directors of such authority; and (4) provisions for the termination of such authority. The ordinance creating any such authority may, but shall not be required to, contain other provisions concerning the authority.

(c) By ordinance of its legislative body, the constituent municipality shall prepare and submit a preliminary plan of operation for any proposed authority to the commissioner of environmental protection and the commissioner of public health for their review and approval in accordance with this act. The commissioner of environmental protection shall review such authority's preliminary plan of operation, and if, after consultation with the secretary of the office of policy and management, he finds that such preliminary plan of operation is not contrary to the environmental protection laws of the state, shall approve such plan. The commissioner of public health shall review such authority's preliminary plan of operation, if, after consultation with the secretary of the office of policy and management, he finds that such preliminary plan of operation is not contrary to the public health laws of the state, shall approve such plan. The commissioner of environmental protection and the commissioner of public health shall either approve or reject a preliminary plan of operation within sixty (60) days after submission. Any rejection of a preliminary plan of operation shall not preclude the submission of a revised preliminary plan of operation.

(d) Upon the adoption of such ordinance or ordinances by the legislative body of the constituent municipality creating an authority, the approval of a preliminary plan of

operation for such authority by the commissioner of environmental protection and the commissioner of public health, and the filing of the articles of incorporation of such authority with the secretary of state, the authority created thereby shall constitute a public body politic and corporate of the state, and a political subdivision of the state established and created for the performance of an essential public and governmental function. Notwithstanding the provisions of any other general statute, special act, charter or ordinance, the approval of the preliminary plan of operation by the commissioner of environmental protection and the commissioner of public health in accordance with this act shall be the sole approvals required from the state for the creation of an authority and the transfer of a system, by sale, lease, gift or otherwise, from a constituent municipality to an authority, under this act.

(e) Notwithstanding the provisions of any other general statute, special act, municipal charter or ordinance, the amount of consideration to be paid by an authority to its constituent municipality for the sale or lease of a system shall equal the fair market value determined pursuant to a valuation analysis based upon an income approach to value and accepted by resolution of the constituent municipality's legislative body.

(f) In connection with the transfer of any system from a constituent municipality to an authority by sale, lease, gift or otherwise:

(1) All employees of the constituent municipality whose employment relates to the transferred system and who are necessary for the operation of the transferred system either shall remain employees of the constituent municipality or shall become employees of such authority. Such employees who remain employees of the constituent municipality shall provide services to such authority under an agreement between the constituent municipality and such authority, on terms not inconsistent with this act;

(2) Such employees of the constituent municipality who become employees of such authority shall be credited by such authority with all rights that have accrued

as of the date of such acquisition with respect to seniority, sick leave, vacation, insurance and pension benefits in accordance with the records, personnel policies and labor agreements of the constituent municipality;

(3) Such authority shall directly or indirectly assume and observe all accrued pension, retirement and other employee benefit obligations of the constituent municipality to current and former employees of the constituent municipality whose employment related or relates to the transferred system, and members and beneficiaries of any such pension, retirement or other employee benefit system established by the constituent municipality shall continue to have such rights, privileges, benefits, obligations and status with respect to such established systems as have accrued as of the date of transfer of any system from a constituent municipality to such authority. Such authority may enter into agreements with representatives of its employees relative to the inclusion of its employees in any applicable state or municipal employees' retirement plan or plans, and such authority shall constitute a municipality eligible to participate in such retirement plans. Such authority may enter into agreements with representatives of its employees relative to the transfer to or the establishment of pension trust funds under the joint control of such authority and representatives of its employees, and shall have all powers necessary to maintain and administer such trust funds jointly with representatives of its employees;

(4) Such authority shall directly or indirectly assume and observe all labor contracts of the constituent municipality in existence at the date of transfer of any system from such constituent municipality to an such authority for current employees of the constituent municipality whose employment relates to the transferred system, and all obligations incurred by such contracts regarding wages, salaries, hours, sick leave and other leave, working conditions, grievance procedures, collective bargaining and pension or retirement; and

(5) Such authority shall directly or indirectly assume and observe personnel policies of the constituent municipality pertaining to current employees whose employment relates to the transferred system in existence at the time of transfer and is not covered by labor contracts, and all obligations incurred through such personnel policies regarding wages, salaries, hours, sick leave, vacation, pension and retirement, subject to such modifications therein as such authority may subsequently adopt (for such personnel who become employees of such authority), provided any such modification shall not affect any rights of such employees that have vested prior to such modification.

(g) Nothing in this act shall be construed to prohibit an authority from exercising the normal prerogatives of management with respect to such matters as the promotion, demotion, assignment, transfer or discharge of its employees, nor shall an authority be bound by any terms of any personnel policy entered into by the constituent municipality in anticipation of its transfer of any system to an authority.

(h) The relations between an authority and its employees with respect to collective bargaining and the arbitration of labor disputes shall be governed by sections 7-467 to 7-478, inclusive, of the general statutes.

(i) Upon the transfer of a system from a constituent municipality to an authority by sale, lease, gift or otherwise, pursuant to the provisions of this act, such authority shall promptly reimburse the constituent municipality for all fees, costs and expenses, including professional fees, paid or incurred by the constituent municipality related to the creation of such authority and related to the transfer of any system, by sale, lease, gift or otherwise, from the constituent municipality to such authority.

(j) An authority and its corporate existence shall continue until terminated by law or by requisite action prescribed by the legislative body of its constituent municipality in the authority's articles of incorporation, provided no such law or action shall take effect so long as such authority shall have bonds or other obligations outstanding, unless adequate

provision has been made for the payment or satisfaction of such bonds or other obligations in accordance with the terms of such authority's financing agreements and bond resolutions.

(k) Notwithstanding the provisions of any other general statute, special act or municipal charter or ordinance, the approvals required under this act shall be the only state and local approvals required in connection with the creation of an authority, the transfer, by sale, lease, gift or otherwise, of a system by a constituent municipality to an authority and the initial ownership, lease or operation of a system by an authority. Nothing in this act shall relieve an authority from thereafter complying with applicable laws and regulations related to ownership, lease or operation of a system, except as provided otherwise in this act. Any transfer of a system, by sale, lease, gift or otherwise, by a constituent municipality to an authority shall be subject to any and all contractual obligations of the constituent municipality related to the system.

## Sec. 2.

(a) An authority created pursuant to this act may:

(1) sue and be sued and institute, prosecute, maintain and defend any action or proceeding in any court or before any agency or tribunal of competent jurisdiction;

(2) have a seal and alter the same at its pleasure;

(3) purchase, receive by gift, lease, condemn for public purposes or otherwise acquire an interest in, or the right to use, hold and dispose of any property, real or personal, tangible or intangible, including any existing system or parts thereof, and any interest in such property as it may deem necessary, desirable or convenient;

(4) sell, lease, grant options to purchase or to renew a lease for any interest in all or any portion of property of such authority, real or personal, tangible or intangible, determined by such authority to be no longer used by or useful to such authority, on such terms as such authority may determine to be necessary, desirable or convenient, subject to the provisions of applicable law concerning such sale, lease or options; provided, however, that, except as provided in section 2(a)(5) or section 2(a)(17) of this act, such authority may not sell, lease or otherwise convey any interest in land classified under section 25-37(c) of the general statutes as class I or class II water-company-owned land.

(5) mortgage or otherwise encumber all or any portion of the property of such authority, real or personal, tangible or intangible, or assume all or any portion of any obligations incurred by a constituent municipality in connection with the acquisition, construction or operation of any system transferred to or operated by such authority, or any person operating a system on behalf of such authority whenever, in the opinion of such authority, such action is deemed to be in furtherance of the purposes of this act;

(6) own, operate and maintain any system of such authority and make provision for its management;

(7) determine the location and character of any system to be developed by such authority and construct, reconstruct, replace, enlarge and extend any system of such authority, including provision for the inspection and supervision thereof and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and any other actions incidental thereto;

(8) contract for architectural, engineering and design, and construction supervision, system management and facility management services, and for such other professional or technical services as may require either the prequalification



of a contractor or the submission by any person or consortium or association of persons of a proposal in response to an official request for proposal or similar written communication of such authority, deemed necessary, desirable or convenient in carrying out the purposes of such authority;

(9) contract for the construction, operation or management of systems of such authority with private persons, or consortia of such persons, as such authority may deem necessary, desirable or convenient;

(10) contract with special districts, municipalities, municipal, state or regional water authorities, municipal, state, regional or federal agencies or private persons to provide water and related services, and to plan, design, construct, manage, operate and maintain systems and facilities on their behalf;

(11) purchase water approved by the commissioner of public health from any private person, special district or municipal, state, regional or federal agency, when necessary or convenient for the operation of any system owned, leased or operated by such authority;

(12) adopt and amend bylaws, rules and regulations, not inconsistent with its articles of incorporation, governing the administration of its property and the conduct of its affairs and revise its plan of operation to better fulfill the purposes of this act. A copy of such bylaws, rules and regulations and all amendments thereto, duly certified, shall be filed in the office of the city clerk of the constituent municipality. Any superior court located within the judicial district in which the constituent municipality is located shall have jurisdiction over any violation of such bylaws, rules or regulations and such authority may prosecute actions before the superior court to enforce such bylaws, rules and regulations;

(13) make investments and contracts and execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or non-negotiable;

(14) appoint such advisory councils as it may deem advisable to benefit the people of a constituent municipality or any other users of the system;

(15) borrow money, issue bonds, fund and refund the same and provide for the rights of the holders of such authority's obligations;

(16) receive funds from the sale of such authority's bonds and of the sale, lease or other disposition of any interest in its properties, real or personal, tangible or intangible in accordance with subsection (4), above;

(17) make a loan of the proceeds of its bonds or other funds to any special district, any municipality, including any constituent municipality, any municipal, state or regional authority or any private person for the planning, design, acquisition, construction, reconstruction, improvement, equipping and furnishing of a system of such authority, which loans may be evidenced and secured by loan agreements, contracts or any other instruments or agreements containing such terms and conditions as such authority shall determine necessary, desirable or convenient, including provisions for the establishment and maintenance of reserve funds, and for the construction, use, operation and maintenance and the payment of operating and other costs of a system. In connection with the making of any such loan, such authority may purchase, acquire and take assignments of any note or bond of any special district, municipality, including any constituent municipality, any municipal, state or regional authority and any private person and may receive other forms of security and evidence of indebtedness, and in furtherance of the purposes of this act, and in order to assure the payment of the principal of and interest on such loans, and in order to assure the payment of the principal of and interest on bonds of such authority issued to provide funding for such loans, may attach, seize, purchase, acquire, accept or take title to any system, and may sell, lease, rent or otherwise dispose of any interest in any system;

(18) open the grounds in any public street or way or public grounds for the purpose of laying, installing, maintaining or replacing pipes and conduits comprising or related to a system of such authority, provided the grounds shall be restored to their previous conditions upon the completion of such work;

(19) apply for and accept grants, loans or contributions from the United States, the state of Connecticut or any agency, instrumentality or subdivision of either of them or from any person, and to expend the proceeds for any of its purposes;

(20) subject to approval by a majority of members of such authority's Board of Directors and such other requirements as such authority may establish, indemnify and hold harmless any person in connection with the business of such authority, including, indemnification against taxation by the federal and state governments respecting any state or local property taxes and any realization of tax benefits or incentives associated with ownership of a system or of ownership of any interest in property, real or personal, tangible or intangible;

(21) make plans, surveys, studies and investigations necessary or desirable in conformity with the plan of operation of such authority;

(22) enter upon public or private lands and waters, as may be necessary, to make surveys, soundings, borings and examinations in order to accomplish the purposes of such authority;

(23) establish and impose fees, rates, charges and penalties on users of the system, including the state and any political subdivisions thereof, including municipalities, and levy assessments on property benefited by the system, including property owned by the state and any political subdivisions thereof, including municipalities, in accordance with this act, for the services it performs and waive, suspend, reduce or otherwise modify such fees, rates, charges, penalties or assessments; provided each such fee, rate, charge, penalty or

assessment shall apply uniformly to all users and benefited properties within the constituent municipality with respect to a given type or category of water supply, in accordance with criteria established by such authority, and further provided no change may be made in user fees to users within the constituent municipality without at least sixty (60) days prior notice to the users affected thereby;

(24) conduct such hearings, examinations and investigations as may be necessary or convenient to the conduct of its operations and the fulfillment of its responsibilities;

(25) obtain access to public records and apply for the process of subpoena if necessary to produce books, papers, records and other data;

(26) retain by contract or employ legal counsel, accountants, engineers, private consultants and other professional advisers;

(27) employ a staff and establish staff duties, compensation and benefits;

(28) establish offices where necessary or convenient in the constituent municipality and where any of the system is located; and

(29) otherwise do any and all things necessary or convenient for the exercise of its rights, the performance of its duties, the fulfillment of its obligations, the conduct of its operations and the maintenance of its relationships with the state, municipalities, including, its constituent municipality, regions and other persons.

### Sec. 3.

(a) The exercise by an authority of the powers granted by this act shall constitute the performance of an essential governmental function and an authority shall not be required to pay any taxes or assessments upon or in respect of a system, or any property of an authority, real or personal, tangible or intangible, levied by any municipality or other

political subdivision of the state, or special district having taxing powers of the state, nor shall an authority be required to pay state taxes of any kind, and an authority, its system, property and the principal and interest of any bonds, notes and other agreements, instruments and documents evidencing indebtedness of an authority issued under the provisions of this act, their transfer and the income therefrom, including revenues derived from the sale thereof, shall at all times be free from taxation of every kind by the state of Connecticut or under its authority, except for estate and gift taxes imposed by the state or any political subdivision thereof, but the interest on such bonds and other indebtedness of an authority shall be included in the computation of any excise or franchise tax. In lieu of such taxes or assessments, with respect to its property, real or personal, tangible or intangible, an authority shall make annual payments to each municipality in which it owns such property equal to taxes that would otherwise be due for such property.

(b) To establish the amount of any such payments in lieu of taxes, property owned by an authority shall be assessed in accordance with section 12-63 of the general statutes. Payments in lieu of taxes for property acquired by an authority during any tax year shall be adjusted for such fractional year in accordance with the customary practice in such municipality for adjusting taxes between the buyer and seller of real property. In addition, an authority shall reimburse each such municipality for such municipality's expenses in providing municipal services to any improvements made to or constructed on any real property by such authority, or by any person leasing or operating a system on behalf of such authority, within such municipality. As used in this section, "improvements" does not include water pipes or improvements to water pipes.

(c) An authority may contest the assessed valuation of any properties owned by such authority with respect to which any payment in lieu of taxes is determined in the same manner as any owner of property in such municipality. Payments in lieu of taxes payable to any municipality shall be paid by an authority to the municipality upon the date and in the manner provided for the payment of property taxes of the municipality.

(d) In the event an authority in any year does not have sufficient funds to make such payments in lieu of taxes, or any portion of them, as the same become due and payable, such authority shall adjust its rates and charges, so as to provide funds to make such payment. Any municipality aggrieved by the failure of an authority to make any payment in lieu of taxes or portion thereof as the same becomes due and payable may apply to the superior court for the judicial district in which such municipality is situated for an order directing such authority to appropriately increase its rates and charges.

#### Sec. 4

An authority shall have an annual audit of its accounts, books and records by a certified public accountant selected by such authority. A copy of the audit shall be filed in the office of the city clerk of the constituent municipality and with the public utilities control authority, and shall be available for public inspection during the ordinary business hours of such authority at the principal office of such authority.

#### Sec. 5

Neither the public utilities control authority nor any successor board or commissioner shall have jurisdiction of any kind over an authority, or the rates fixed or charges collected by an authority.

#### Sec. 6.

An authority shall have all rights, including the right to take and use lands, springs, streams or ponds, or any rights or interests therein, granted to a town, city, borough, municipal corporation or corporation authorized by law to supply the inhabitants of any town, city or borough with pure water for public or domestic use. The procedure for condemning land or any rights or interests therein shall be as provided in section 48-12.

#### Sec. 7.

An authority may assign, for consideration, any and all liens filed by such authority to secure unpaid assessments or connection or use charges of such authority. The consideration received by such authority shall be negotiated between such authority

and the assignee. The assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as such authority would have had if the lien had not been assigned, with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee shall have the same rights to enforce such liens as any private party holding a lien on real property, including, but not limited to, foreclosure and a suit on the debt. Costs and reasonable attorneys' fees incurred by the assignee as a result of any foreclosure action or other legal proceeding brought pursuant to this section and directly related to the proceeding shall be taxed in any such proceeding against each person having title to any property subject to the proceedings. Such costs and fees may be collected by the assignee at any time after demand for payment has been made by the assignee.

#### Sec. 8

Neither an authority, nor any person acting in its behalf, while acting within the scope of their authority shall be subject to any personal liabilities resulting from the erection, construction, reconstruction, maintenance or operation of any system, or resulting from carrying out any of the powers given in this act.

#### Sec. 9

The state of Connecticut does pledge to and agree with the holders of the bonds of any authority that the state will not limit or alter the rights vested in any such authority to acquire, construct, maintain, operate, reconstruct, alter, improve, enlarge and extend any system of any such authority, to establish and collect the fees, rates, charges and penalties referred to in section 2 of this act and to fulfill the terms of any agreements made with the holders of the bonds, or in any way impair the rights and remedies of the bondholders until the bonds together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

## Sec. 10

The bonds of an authority shall be securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings and loan associations, investment companies and other persons carrying on a banking business and all other persons who are now or may 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. The bonds shall also be securities that may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may be authorized.

## Sec. 11

Without limiting the generality of any and all rights, privileges and powers granted to an authority under the provisions of this act, and subject to the provision of this act, an authority shall have the same rights, privilege and powers related to the issuance of bonds as is granted to a municipality or town, as such terms are defined in Chapter 109 of the general statutes. Where Chapter 109 authorizes or requires action by a municipal or town official, officer or body, the board of directors of an authority shall designate an official, officer or body of such authority to take such action on behalf of such authority; provided, however that the provisions of Sections 7-373, 7-374, 7-374a, 7-347c, 7-378b, 7-378d and 7-378f of the general statutes shall not apply to any authority. For purposes hereof, references in Chapter 109 to taxes or taxation shall mean charges or assessments by an authority.

## Sec. 12

In so far as the provisions of this act are inconsistent with the provisions of any other general statute or special act or any municipal charter or ordinance, the provisions of this act shall be controlling.



Sec.13

(a) A person who is aggrieved by a decision of an authority with respect to the establishment of fees, rates, charges or penalties, the sale, lease or other transfer or change of use of real property, the location of purification or filtration plants, the commencement of any project costing more than five million dollars to repair, improve, construct, reconstruct, enlarge or extend any system of such authority or the acquisition by purchase, lease or otherwise of any existing system or part thereof, is entitled to judicial review under this section.

(b) Proceedings for review shall be instituted by filing a petition in the superior court for the judicial district in which the constituent municipality is located within thirty days after publication of the decision of such authority or, if a rehearing is requested, within thirty days after the decision thereon. Copies of the petition shall be served upon such authority and published in a newspaper or newspapers having a general circulation in the constituent municipality.

(c) The filing of the petition shall not of itself stay enforcement of the decision of an authority. Such authority may grant, or the reviewing court may order, a stay upon appropriate terms, provided enforcement of a decision respecting the establishment of fees, rates, charges or penalties may be stayed only after issuance of a judgment for the appellant by the reviewing court.

(d) Within thirty days after service of the petition, or within such further time as may be allowed by the court, such authority shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review, which shall include such authority's findings of fact and conclusions of law, separately stated. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before such authority, the court may refer the case back to such authority with instructions to take such evidence as the court directs. Such authority may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before an authority, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of an authority as to the weight of the evidence on questions of fact. The court may affirm the decision of an authority or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the findings, inferences, conclusions, or decisions are: (1) in violation of constitutional provisions, or in violation of the provision of the general statutes or any special act; (2) in excess of the powers of an authority; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable probative and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion, or clearly constitute an unwarranted exercise of discretion.

(h) In any case in which an aggrieved party claims that he cannot pay the costs of an appeal under this section and will thereby be deprived of a right to which he is entitled, he shall, within the time permitted for filing the appeal, file with the clerk of the court to which the appeal is to be taken an application for waiver of payment of such fees, costs and necessary expenses, including the requirements of any bond, if any. The application shall conform to the requirements of section 8-2 of the Practice Book. After such hearing as the court determines is necessary, the court shall enter its judgment on the application,

which judgment shall contain a statement of facts the court has found, with its conclusions thereon. The filing of the application for the waiver shall toll the time limits for the filing of an appeal until such time as a judgment on such application is entered.

(i) An authority shall be not be construed to be an agency within the scope of chapter 54 of the general statutes.

~~**"AN ACT CONCERNING PROTECTION OF PUBLIC WATER SUPPLY  
WATERSHEDS."**~~ 6/3/05 Draft

After the last section, add the following and renumber sections and internal references accordingly:

~~"Sec. 501. (Effective from passage) (a) As used in sections 501 to 513, inclusive, of this act:~~

For Review and Discussion Only

STATE OF CONNECTICUT

OFFERED BY:

ENTITLED: AN ACT ALLOWING THE ESTABLISHMENT OF A MUNICIPAL WATER AUTHORITY.

Sec. 1.

(a) As used in this act, the following words and terms shall have the following meanings unless the context clearly indicates another meaning or intent:

(1) "Authority" means a municipal water authority created under the provisions of ~~sections 501 to 513, inclusive, of this act or any entity created by a constituent municipality that is a successor of such a municipal water authority;~~ this act;

~~(2) "Bonds~~

(2) Except as the context otherwise requires, "bonds" means any bonds, notes ~~or~~ and other obligations or indebtedness issued by an authority pursuant to the provisions of ~~sections 501 to 513, inclusive, of~~ this act and any bonds ~~the~~ whose proceeds ~~of which~~ are used to refund or defease such bonds;

(3) "Cost" or "costs" ~~;~~ as applied to any system, ~~means any ~~or~~ and all fees, costs and expenses of an authority directly or indirectly related in any manner to the business of the authority, including the acquisition, ownership, lease, operation, management, repair, maintenance, expansion, alteration, conveyance or other~~

disposition of a system, ~~or~~ as well as any and all other property of an authority, whether real or personal, tangible or intangible;

(4) "Constituent municipality" means an eligible municipality that has created an authority pursuant to the provisions of ~~sections 501 to 513, inclusive, of~~ this act;

(5) "Eligible municipality" means any consolidated town and city ~~that (A) was consolidated in 1902, (B) has a mayor and board of aldermen form of government, and (C) which~~ which has a population of more than one hundred thousand people;

(6) "Including" means including, without limitation;

(7) "Municipality" means any town, city, borough, consolidated town and city or consolidated town and borough; and

~~(7)~~ "System" means plants, structures and any interests in any other property, real or personal, tangible or intangible, acquired, constructed, operated or used in connection with accumulating, supplying or distributing water, including land, reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, mains, pumping stations, water distribution systems, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants and works, connections, rights of flowage or diversion and other plants, structures, conveyances, property, real or personal, tangible or intangible, or rights therein and appurtenances necessary or useful and convenient for the accumulation, supply or distribution of water. Any system owned, leased or operated by an authority shall be considered a municipal waterworks system under chapter 102, with all rights under chapter 102, except as provided otherwise in this act.

(b) Notwithstanding the ~~provision~~ provisions of any other general statute, special act, ~~or~~ or municipal charter or ordinance, any eligible municipality may, by

~~resolution~~ordinance of its legislative body, adopt and exercise the powers granted to an eligible municipality ~~pursuant to~~by the provisions ~~of sections 501 to 513,~~  
~~inclusive,~~ of this act and, subject to the provisions of this act, create an authority, which shall be a public corporation, created for the purposes, charged with the duties and granted the powers provided in ~~sections 501 to 513, inclusive,~~ of this act, and, ~~by resolution of its legislative body,~~ transfer to an authority, by sale, lease, gift or otherwise, all or any portion of a system in accordance with ~~the provisions of sections 501 to 513, inclusive,~~ of this act. The resolution creating the applicable provisions of the constituent municipality's charter and ordinances, including any referendum requirements concerning such transfer, by sale, lease, gift or otherwise, and in accordance with the provisions of this act; provided, however, that the constituent municipality's charter and ordinance provisions concerning or related to bidding or proposals for sale or lease of the constituent municipality's property shall be inapplicable. The ordinance creating any authority shall contain a brief statement of the purpose of ~~the~~any such authority and shall set forth the articles of incorporation of the authority, as follows: (1) ~~The~~the name of ~~the~~such authority and the initial address of its principal office; (2) a statement that ~~the~~such authority is created as an authority under ~~sections 501 to 513, inclusive,~~ of this act; and (3) ~~the names, addresses and terms of office of the initial directors of the authority.~~

~~(c) Each resolution adopted pursuant to subsection (b) of this section shall be submitted to the electors of the eligible municipality for their approval. Not later than fourteen days after the adoption of such resolution a copy of such resolution shall be published in a newspaper having a general circulation within the eligible municipality in which such resolution was adopted together with a notice of the time that a referendum shall be held on the question of approval of such resolution. The question of approval of such resolution shall be submitted to the electors of such municipality at a special election called for such purpose to be held not less than thirty days, or more than sixty days, after adoption of such resolution, in conformity with the provisions of section 9-369 of the general statutes or, if a regular municipal election is to be held more than sixty days, but not more than one hundred twenty days, after the adoption of such resolution, such question shall be so submitted at such regular election and a vote thereon shall be taken in the manner prescribed by said section 9-369. If a majority of those voting in any such referendum vote to approve such resolution, such~~

resolution shall thereupon become effective. If less than a majority of those voting in any such referendum vote to approve such resolution, it shall become null and void.

~~(d) The authority shall be comprised of thirteen directors, appointed as follows: (1) Five appointed by the mayor, all of whom shall be residents and taxpayers of the constituent municipality and three of whom shall have expertise in water issues; (2) three appointed by the president of the constituent municipality's board of aldermen, two of whom shall be attorneys with expertise in municipal law; (3) two appointed by the majority leader of the constituent municipality's board of aldermen; (4) one appointed by the minority leader of the constituent municipality's board of aldermen; and (5) two appointed by the chairperson of the constituent municipality's board of finance, each of whom shall be residents and taxpayers of the constituent municipality with expertise in municipal water supply systems. All appointments to the authority shall be made not later than thirty days after the referendum approving creation of the authority. (e) The constituent municipality of an authority shall, by resolution of its legislative body, determine~~(3) the number, method of appointment and removal, terms of office and the method of determining ~~the directors' compensation, if any, the method of removal and the terms of office of directors and officers. Directors' terms shall be so arranged that not more than one-half of such terms shall expire within any one year. The constituent municipality of an authority may, by resolution of its legislative body, establish codes of conduct and conflict of interest rules for the authority's directors, officers and employees.~~compensation, if any, of the directors of such authority; and (4) provisions for the termination of such authority. The ordinance creating any such authority may, but shall not be required to, contain other provisions concerning the authority.

~~(f) By resolution of its legislative body, the constituent municipality shall prepare and submit a preliminary plan of operation for the proposed authority to the Commissioners of Environmental Protection and Public Health and the State Treasurer for their review and approval in accordance with sections 501 to 513, inclusive, of this act. Such plan of operation shall include the procedure by which bonds of such authority shall be approved and issued. The Commissioner of Environmental Protection shall review the authority's preliminary plan of operation and approve it, if, after consultation with the Secretary of the Office of Policy and Management, said commissioner finds that such preliminary plan of operation is in furtherance of the environmental protection laws of the state. The Commissioner of Public Health shall review the authority's preliminary plan of operation and approve it, if, after consultation with the Secretary of the Office of Policy and Management, said commissioner finds that such preliminary plan of operation is in furtherance of the public health laws of the state. The State Treasurer shall review the authority's preliminary plan of operation and approve it, if the Treasurer finds that the authority operating under such plan of~~

~~operation is eligible to apply for financing under sections 22a-477 to 22a-483, inclusive, of the general statutes. An authority shall not change the procedure for approving the issuance of its bonds as prescribed by its plan of operation without the approval of its constituent municipality and the State Treasurer.~~

(c) By ordinance of its legislative body, the constituent municipality shall prepare and submit a preliminary plan of operation for any proposed authority to the commissioner of environmental protection and the commissioner of public health for their review and approval in accordance with this act. The commissioner of environmental protection shall review such authority's preliminary plan of operation, and if, after consultation with the secretary of the office of policy and management, he finds that such preliminary plan of operation is not contrary to the environmental protection laws of the state, shall approve such plan. The commissioner of public health shall review such authority's preliminary plan of operation, if, after consultation with the secretary of the office of policy and management, he finds that such preliminary plan of operation is not contrary to the public health laws of the state, shall approve such plan. The commissioner of environmental protection and the commissioner of public health shall either approve or reject a preliminary plan of operation within sixty (60) days after submission. Any rejection of a preliminary plan of operation shall not preclude the submission of a revised preliminary plan of operation.

~~(gd) Upon the approval of such resolution or resolutions by a majority of those voting in a referendum pursuant to subsection (c) of this section, and~~adoption of such ordinance or ordinances by the legislative body of the constituent municipality creating an authority, the approval of a preliminary plan of operation for such authority by the ~~Commissioner of Environmental Protection, the Commissioner of Public Health and the State Treasurer~~commissioner of environmental protection and the commissioner of public health, and the filing of the articles of incorporation of such authority with the secretary of state, the authority created thereby shall constitute a public body politic and corporate of the state, and a political subdivision of the state established and created for the performance of an essential public



and governmental function. ~~Any rejection of a preliminary plan of operation shall not preclude the submission of a revised plan. The~~ Notwithstanding the provisions of any other general statute, special act, charter or ordinance, the approval of the preliminary plan of operation by the ~~Commissioner of Environmental Protection, the Commissioner of Public Health and the State Treasurer, in accordance with sections 501 to 513, inclusive, of~~ commissioner of environmental protection and the commissioner of public health in accordance with this act shall ~~constitute conclusive evidence of the state's approval of~~ be the sole approvals required from the state for the creation of an authority and the transfer of a system, by sale, lease, gift or otherwise, from a constituent municipality to an authority, under ~~sections 501 to 513, inclusive, of this act.~~ this act.

~~(h)~~ The ~~(e)~~ Notwithstanding the provisions of any other general statute, special act, municipal charter or ordinance, the amount of consideration to be paid by an authority to its constituent municipality for the sale or lease of a system shall ~~not be greater than~~ equal the fair market value determined pursuant to a valuation analysis based upon an income approach to value and accepted by resolution of the constituent municipality's legislative body.

~~(f)~~ In connection with the transfer of any system from a constituent municipality to an authority by sale, lease, gift or otherwise:

- (1) All employees of the constituent municipality whose employment relates to the transferred system and who are necessary for the operation of the transferred system, ~~shall become employees of the authority and shall be credited by the~~ either shall remain employees of the constituent municipality or shall become employees of such authority. Such employees who remain employees of the constituent municipality shall provide services to such authority under an agreement between the constituent municipality and such authority, on terms not inconsistent with this act;

(2) Such employees of the constituent municipality who become employees of such authority shall be credited by such authority with all rights that have accrued as of the date of such acquisition with respect to seniority, sick leave, vacation, insurance and pension benefits in accordance with the records, personnel policies ~~or~~and labor agreements of the constituent municipality-;

~~(23) The~~Such authority shall directly or indirectly assume and observe all accrued pension, retirement and other employee benefit obligations of the constituent municipality to current and former employees of the constituent municipality whose employment related or relates to the transferred system, and members and beneficiaries of any such pension-~~or~~, retirement or other employee benefit system ~~or other benefits~~ established by the constituent municipality shall continue to have such rights, privileges, benefits, obligations and status with respect to such established systems as have accrued as of the date of transfer of any system from a constituent municipality.~~The~~ to such authority. Such authority may enter into agreements with representatives of its employees relative to the inclusion of its employees in any applicable state or municipal employees' retirement plan or plans, and ~~the~~such authority shall constitute a municipality eligible to participate in such retirement plans.~~The~~ Such authority may enter into agreements with representatives of its employees relative to the transfer to or the establishment of pension trust funds under the joint control of such authority and representatives of its employees, and shall have all powers necessary to maintain and administer such trust funds jointly with representatives of its employees-;

~~(34) The authority shall assume and observe all collective bargaining agreements of the constituent municipality~~Such authority shall directly or indirectly assume and observe all labor contracts of the constituent municipality in existence at the date of transfer of any system from such constituent municipality to an such authority for current employees of the constituent municipality whose employment relates to the transferred system ~~in existence at~~

~~the date of transfer of any system from such constituent municipality,~~ and all obligations incurred by such ~~agreements~~contracts regarding wages, salaries, hours, sick leave and other leave, working conditions, grievance procedures, collective bargaining and pension or retirement-; and

(45) ~~The~~Such authority shall directly or indirectly assume and observe personnel policies of the constituent municipality pertaining to current employees whose employment relates to the transferred system in existence at the time of transfer and ~~are~~is not covered by ~~collective bargaining agreements~~labor contracts, and all obligations incurred through such personnel policies regarding wages, salaries, hours, sick leave, vacation, pension and retirement, subject to such modifications therein as ~~the~~such authority may subsequently adopt (for such personnel who become employees of such authority), provided any such ~~modifications~~modification shall not affect any rights of such employees that have vested prior to such modification.

(jg) Nothing in ~~sections 501 to 513, inclusive, of~~ this act shall be construed to prohibit ~~the~~an authority from exercising the normal prerogatives of management with respect to such matters as the promotion, demotion, assignment, transfer or discharge of its employees, nor shall ~~the~~an authority be bound by any terms of any personnel policy entered into by the constituent municipality in anticipation of its transfer of any system to ~~the~~an authority.

(kh) The relations between ~~the~~an authority and its employees with respect to collective bargaining and the arbitration of labor disputes shall be governed by sections 7-467 to 7-478, inclusive, of the general statutes.

(li) Upon the ~~creation of an authority and the~~ transfer of a system from a constituent municipality to an authority by sale, lease, gift or otherwise, pursuant to the provisions of ~~sections 501 to 513, inclusive, of~~ this act, ~~the~~such authority shall

promptly reimburse the constituent municipality for all fees, costs and expenses, including professional fees, paid or incurred by the constituent municipality related to the creation of ~~the~~such authority and related to the transfer of any system, by sale, lease, gift or otherwise, from the constituent municipality to ~~the~~such authority.

~~(m) Any system owned, leased or operated by an authority shall be considered a municipal waterworks system under chapter 102 of the general statutes, with all rights under chapter 102, except as otherwise provided in sections 501 to 513, inclusive, of this act.~~

~~(n)~~ (j) An authority and its corporate existence shall continue until terminated by law or by ~~resolution of the~~requisite action prescribed by the legislative body of its constituent municipality~~'s legislative body~~ in the authority's articles of incorporation, provided no such law or ~~resolution~~action shall take effect so long as ~~the~~such authority ~~has~~shall have bonds or other obligations outstanding, unless adequate provision has been made for the payment or satisfaction of such bonds or other obligations in accordance with the terms of ~~the~~such authority's financing agreements and bond resolutions. ~~Upon termination of the existence of an authority, all of the obligations, rights and properties of the authority shall pass to and vest in the constituent municipality. No such termination shall relieve such constituent municipality of any liability, responsibility or obligation incurred by it concerning the authority or as a user of any of the authority's system.~~

~~(o)~~ (k) Notwithstanding ~~any provision~~the provisions of ~~the~~any other general ~~statutes~~statute, special act or municipal charter or ordinance, the approvals required under ~~sections 501 to 513, inclusive, of~~ this act shall be the only state and local approvals required in connection with the creation of an authority, the transfer, by sale, lease, gift or otherwise, of a system by a constituent municipality to an authority and the initial ownership, lease or operation of a system by an authority, ~~provided, such transfer, by sale, lease, gift or otherwise, complies with applicable provisions of the constituent municipality's charter and ordinances concerning such transfer, by sale, lease, gift or otherwise. Nothing in sections 501 to 513, inclusive, of~~

Nothing in this act shall relieve an authority from thereafter complying with applicable laws and regulations related to ownership, lease or operation of a system, except as provided otherwise in ~~sections 501 to 513, inclusive, of~~ this act. Any transfer of a system, by sale, lease, gift or otherwise, by a constituent municipality to an authority shall be subject to any and all contractual obligations of the constituent municipality related to the system.

Sec. 2.

~~(a) Sec. 502. (Effective from passage) (a) Any~~ An authority created pursuant to ~~sections 501 to 513, inclusive, of~~ this act may:

- (1) ~~Sue~~ sue and be sued and institute, prosecute, maintain and defend any action or proceeding in any court or before any agency or tribunal of competent jurisdiction;
- (2) ~~Have~~ have a seal and alter the same at its pleasure;
- (3) ~~Purchase~~ purchase, receive by gift, lease, condemn for public purposes or otherwise acquire an interest in, or the right to use, hold and dispose of any property, real or personal, tangible or intangible, including any existing system or parts thereof, and any interest in such property as it may deem necessary, desirable or convenient, ~~subject to approval by referendum of any transaction that involves property valued in excess of two hundred thousand dollars;~~
- (4) ~~Sell~~ sell, lease, grant options to purchase or to renew a lease for any interest in all or any portion of ~~a system of the authority~~ property of such authority, real or personal, tangible or intangible, determined by such authority to be no longer used by or useful to such authority, on such terms as ~~the~~ such authority may determine to be necessary, desirable or convenient, subject to ~~approval by referendum of any transaction that involves property valued in excess of two hundred thousand dollars;~~ the provisions of applicable law concerning such sale, lease or options; provided, however, that, except as provided in section 2(a)(5) or section

2(a)(17) of this act, such authority may not sell, lease or otherwise convey any interest in land classified under section 25-37(c) of the general statutes as class I or class II water-company-owned land.

(5) ~~Mortgage~~mortgage or otherwise encumber all or any portion of the property of ~~the~~such authority, real or personal, tangible or intangible, or assume all ~~of~~or any portion of any obligations incurred by a constituent municipality in connection with the acquisition, construction or operation of any system transferred to or operated by ~~the~~such authority, or any person operating a system on behalf of such authority whenever, in the opinion of ~~the~~such authority, such action is deemed to be in furtherance of the purposes of ~~sections 501 to 513,~~  
~~inclusive, of~~ this act;

(6) ~~Own~~own, operate and maintain any system of ~~the~~such authority and make provision for its management;

(7) ~~Determine~~determine the location and character of any system to be developed by ~~the~~such authority and construct, reconstruct, replace, enlarge and extend any system of ~~the~~such authority, including provision for the inspection and supervision thereof and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and any other actions incidental thereto;

(8) ~~Contract~~contract for architectural, engineering and design, and construction supervision, system management and facility management services, and for such other professional or technical services as may require either the prequalification of a contractor or the submission by any ~~individual, firm~~person or consortium or association of ~~individuals or firms~~persons of a proposal in response to an official request for proposal or similar written communication of such authority, deemed necessary, desirable or convenient in carrying out the purposes of such authority;

(9) ~~Contract~~contract for the construction, operation or management of systems of ~~the~~such authority with private persons ~~or firms~~, or consortia of such persons ~~or~~

~~firms~~, as ~~the~~such authority may deem necessary, desirable or convenient;

(10) ~~Contract~~contract with special districts, municipalities, municipal, state ~~and~~or regional water authorities, ~~and~~-municipal, state, regional ~~and~~or federal agencies or private persons to provide water and related services, and to plan, design, construct, manage, operate and maintain systems and facilities on their behalf;

(11) ~~Purchase~~purchase water approved by the ~~Commissioner of Public Health~~commissioner of public health from any ~~person, private corporation or municipality~~private person, special district or municipal, state, regional or federal agency, when necessary or convenient for the operation of any system owned, leased or operated by ~~the~~such authority;

(12) ~~Adopt~~adopt and amend bylaws, rules and regulations, not inconsistent with its articles of incorporation, governing the administration of its property and the conduct of its affairs and ~~may~~-revise its plan of operation to better fulfill the purposes of ~~sections 501 to 513, inclusive, of this act; except that an authority may not change the procedure for approving the issuance of its bonds as prescribed by its plan of operation without the approval of the constituent municipality and the State Treasurer~~this act. A copy of such bylaws, rules and regulations and all amendments thereto, duly certified, shall be filed in the office of the city clerk of the constituent municipality ~~and with the Secretary of the State~~. Any superior court located within the judicial district in which the constituent municipality is located shall have jurisdiction over any violation of such bylaws, rules or regulations and ~~the~~such authority may prosecute actions before the superior court to enforce such bylaws, rules and regulations;

(13) ~~Make~~make investments and contracts and execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or ~~nonnegotiable;~~non-negotiable;

(14) ~~Appoint~~appoint such advisory councils as it may deem advisable to benefit the ~~individuals~~people of a constituent municipality or any other users of the system;

(15) ~~Borrow~~borrow money, issue bonds, fund and refund the same and provide for the rights of the holders of ~~the~~such authority's obligations;

(16) ~~Receiver~~receive funds from the sale of ~~the~~such authority's bonds and of the sale, lease or other disposition of any interest in its properties, real or personal, tangible or intangible; in accordance with subsection (4), above;

(17) ~~Make~~make a loan of the proceeds of its bonds or other funds to any ~~private person or entity~~special district, any municipality, including any constituent municipality, ~~or~~ any municipal, state or regional authority or any private person for the planning, design, acquisition, construction, reconstruction, improvement, equipping and furnishing of a system of ~~the~~such authority, which loans may be evidenced and secured by loan agreements, contracts or any other instruments or agreements containing such terms and conditions as ~~the~~such authority ~~determines~~shall determine necessary, desirable or convenient, including provisions for the establishment and maintenance of reserve funds, and for the construction, use, operation and maintenance and the payment of operating and other costs of a system. In connection with the making of any such loan, ~~an~~such authority may: ~~(A) Purchase~~ purchase, acquire and take assignments of any note or bond of any special district, municipality, including any constituent municipality, any municipal, state or regional authority and any private ~~entity or~~ person ~~(B) and may~~ receive other forms of security and evidence of indebtedness, and ~~(C) in furtherance of the purposes of sections 501 to 513, inclusive,~~ of this act, and in order to assure the payment of the principal of and interest on such loans, and in order to assure the payment of the principal of ~~an~~and interest on bonds of ~~the~~such authority issued to provide funding for such loans, may attach, seize, purchase, acquire, accept or take title to any system, and may sell, lease, rent or otherwise dispose of any interest in any system ~~in accordance with the~~



~~powers provided in sections 501 to 513, inclusive, of this act;~~

(18) ~~Open~~open the grounds in any public street or way or public grounds for the purpose of laying, installing, maintaining or replacing pipes and conduits comprising or related to a system of such authority, provided the grounds ~~are~~shall be restored to their previous conditions upon the completion of such work;

(19) ~~Apply~~apply for and accept grants, loans or contributions from the United States, the state of Connecticut or any agency, instrumentality or subdivision of either of them or from any person, and to expend the proceeds for any of its purposes;

(20) ~~Indemnify~~subject to approval by a majority of members of such authority's Board of Directors and such other requirements as such authority may establish, indemnify and hold harmless any person in connection with the business of ~~the~~such authority, including, indemnification against taxation by the federal and state governments respecting any state or local property taxes and any realization of tax benefits or incentives associated with ownership of a system or of ownership of any interest in property, real or personal, tangible or intangible;

(21) ~~Make~~make plans, surveys, studies and investigations necessary or desirable in conformity with the plan of operation of ~~the~~such authority;

(22) ~~Enter~~enter upon public or private lands and waters, as may be necessary, to make surveys, soundings, borings and examinations in order to accomplish the purposes of ~~the~~such authority;

(23) ~~Establish~~establish and impose fees, rates, charges and penalties on users of the system, including the state and any political ~~subdivision~~subdivisions thereof, including municipalities, and levy assessments on property benefited by the system, including property owned by the state and any political subdivisions thereof, including municipalities, in accordance with ~~sections 501 to 513, inclusive, of~~ this act, for the services it performs and waive, suspend, reduce or otherwise modify such fees, rates, charges, penalties or assessments; provided each such fee, rate, charge, penalty or assessment ~~applies~~shall apply uniformly to

all users and benefited properties within the constituent municipality with respect to a given type or category of water supply, in accordance with criteria established by ~~the~~such authority, and further provided no change ~~is~~may be made in user fees to users within the constituent municipality without at least sixty (60) days prior notice to the users affected thereby;

(24) ~~Conduct~~conduct such hearings, examinations and investigations as may be necessary or convenient to the conduct of its operations and the fulfillment of its responsibilities;

(25) ~~Obtain~~obtain access to public records and apply for the process of subpoena if necessary to produce books, papers, records and other data;

(26) ~~Retain~~retain by contract or employ legal counsel, accountants, engineers, private consultants and other professional advisers;

(27) ~~Employ~~employ a staff and establish staff duties, compensation and benefits;

(28) ~~Establish~~establish offices where necessary or convenient in the constituent municipality and where any of the system is located; and

(29) ~~Otherwise~~otherwise do any and all things necessary or convenient for the exercise of its rights, the performance of its duties, the fulfillment of its obligations, the conduct of its operations and the maintenance of its relationships with the state, municipalities, including, its constituent municipality, regions and other persons.

Sec. ~~503. (Effective from passage) 3.~~

(a) The exercise by an authority of the powers granted by ~~sections 501 to 513, inclusive, of~~ this act shall constitute the performance of an essential governmental function and ~~the~~an authority shall not be required to pay any taxes or assessments upon or in respect of a system, or any property of ~~the~~an authority, real or personal, tangible or intangible, levied by any municipality or other political subdivision of the state, or special district having taxing powers of the state, nor shall ~~the~~an authority be required to pay state taxes of any kind, and ~~the~~an authority, its system, property and the principal and

interest of any bonds, notes and other agreements, instruments and documents evidencing indebtedness of an authority issued under the provisions of ~~sections 501 to 513,~~ ~~inclusive of~~ this act, their transfer and the income therefrom, including revenues derived from the sale thereof, shall at all times be free from taxation of every kind by the state of Connecticut or under its authority, except for estate and gift taxes imposed by the state or any political subdivision thereof, but the interest on such bonds and other indebtedness of ~~the~~an authority shall be included in the computation of any excise or franchise tax. In lieu of such taxes or assessments, with respect to its property, real or personal, tangible or intangible, ~~the~~an authority shall make annual payments to each municipality in which it owns such property equal to taxes that would otherwise be due for such property.

(b) To establish the amount of any such payments in lieu of taxes, property owned by an authority shall be assessed in accordance with section 12-63 of the general statutes. Payments in lieu of taxes for property acquired by ~~the~~an authority during any tax year shall be adjusted for such fractional year in accordance with the customary practice in such municipality for adjusting taxes between the buyer and seller of real property. In addition, ~~the~~an authority shall reimburse each such municipality for such municipality's expenses in providing municipal services to any improvements made to or constructed on any real property by ~~the~~such authority, or by any person leasing or operating a system on behalf of ~~an~~such authority, within such municipality. As used in this section, "improvements" does not include water pipes or improvements to water pipes.

(c) ~~The~~An authority may contest the assessed valuation of any properties owned by ~~the~~such authority with respect to which any payment in lieu of taxes is determined in the same manner as any owner of property in such municipality. Payments in lieu of taxes payable to any municipality shall be paid by ~~the~~an authority to the municipality upon the date and in the manner provided for the payment of property taxes of the municipality.

(d) In the event ~~the~~an authority in any year does not have sufficient funds to make such payments in lieu of taxes, or any portion of them, as the same become due and payable, ~~the~~such authority shall adjust its rates and charges, so as to provide funds to make such payment. Any municipality aggrieved by the failure of an authority to make any payment in lieu of taxes or portion thereof as the same becomes due and payable may apply to the superior court for the judicial district in which such municipality is situated for an order directing ~~the~~such authority to appropriately increase its rates and charges.

Sec. ~~504. (Effective from passage)~~ 4

An authority shall have an annual audit of its accounts, books and records by a certified public accountant selected by ~~the~~such authority. A copy of the audit shall be filed in the office of the city clerk of the constituent municipality and with the ~~Public Utilities Control Authority~~public utilities control authority, and shall be available for public inspection during the ordinary business hours of ~~the~~such authority at the principal office of ~~the~~such authority.

Sec. ~~505. (Effective from passage)~~ 5

Neither the ~~Public Utilities Control Authority~~public utilities control authority nor any successor board or commissioner shall have jurisdiction of any kind over ~~the~~an authority, or the rates fixed or charges collected by ~~the~~an authority.

Sec. ~~506. (Effective from passage)~~ 6

An authority shall have all rights, including the right to take and use lands, springs, streams or ponds, or any rights or interests therein, granted to a town, city, borough, municipal corporation or corporation authorized by law to supply the inhabitants of any town, city or borough with pure water for public or domestic use. The procedure for condemning land or any rights or interests therein shall be as provided in section 48-~~12 of the general statutes.~~ 12.

Sec. ~~507. (Effective from passage)~~ 7

An authority may assign, for consideration, any and all liens filed by such authority to secure unpaid assessments or connection or use charges of ~~the~~such authority. The consideration received by ~~the~~such authority shall be negotiated between ~~the~~such authority and the assignee. The assignee or assignees of such liens shall have and possess the same powers and rights at law or in equity as such authority would have had if the lien had not been assigned, with regard to the precedence and priority of such lien, the accrual of interest and the fees and expenses of collection. The assignee shall have the same rights to enforce such liens as any private party holding a lien on real property, including, but not limited to, foreclosure and a suit on the debt. Costs and reasonable attorneys' fees incurred by the assignee as a result of any foreclosure action or other legal proceeding brought pursuant to this section and directly related to the proceeding shall be taxed in any such proceeding against each person having title to any property subject to the proceedings. Such costs and fees may be collected by the assignee at any time after demand for payment has been made by the assignee.

Sec. ~~508. (Effective from passage)~~ 8

Neither ~~the~~an authority ~~while acting in accordance with sections 501 to 513, inclusive, of this act~~, nor any person acting ~~on~~in its behalf, while acting within the scope of ~~his or her duties~~their authority shall be subject to any personal liabilities resulting from the erection, construction, reconstruction, maintenance or operation of any system, or resulting from carrying out any of the powers given in ~~sections 501 to 513, inclusive, of~~ this act.

Sec. ~~509. (Effective from passage)~~ 9

The state of Connecticut ~~pledges~~does pledge to and ~~agrees~~agree with the holders of the bonds of ~~the~~any authority that the state will not ~~to~~ ~~(1)~~ limit or alter the rights vested in ~~the~~any such authority to ~~(A)~~ acquire, construct, maintain, operate, reconstruct, alter, improve, enlarge and extend any system of ~~the~~any such authority, ~~(B)~~to establish and collect the fees, rates, charges and penalties referred to in section ~~502~~2 of this act, and ~~(C)~~to fulfill the terms of any agreements made with the holders of the bonds, or ~~(2)~~ in any

way impair the rights and remedies of the bondholders until the bonds together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders are fully met and discharged.

Sec. ~~510.~~ *(Effective from passage)* 10

The bonds of ~~the~~an authority shall be securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and ~~others~~other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings and loan associations, investment companies and other persons carrying on a banking business and all other persons who are authorized now or may be authorized ~~in the future~~ to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital in their control or belonging to them. The bonds shall also be securities that may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is authorized now or may be authorized ~~in the future.~~

~~Sec. 511. (Effective from passage) The state of Connecticut covenants with the purchasers and with all subsequent holders and transferees of bonds issued by the authority, in consideration of the acceptance of and payment for the bonds, that the bonds of the authority, the income therefrom and all moneys, funds and revenues pledged to pay or secure the payment of such bonds shall at all times be free from taxation.~~

Sec. 11

Without limiting the generality of any and all rights, privileges and powers granted to an authority under the provisions of this act, and subject to the provision of this act, an authority shall have the same rights, privilege and powers related to the issuance of bonds as is granted to a municipality or town, as such terms are defined in Chapter 109 of the general statutes. Where Chapter 109 authorizes or requires action by a municipal or town official, officer or body, the board of directors of an authority shall designate an official, officer or body of such authority to take such action on behalf of such authority; provided, however that the provisions of Sections 7-373, 7-374, 7-374a, 7-347c, 7-378b, 7-378d and 7-378f of the general statutes shall not apply to any authority. For purposes hereof, references in Chapter 109 to taxes or taxation shall mean charges or assessments by an authority.

Sec. ~~512. (Effective from passage) Insofar~~ 12

In so far as the provisions ~~of sections 501 to 513, inclusive,~~ of this act are inconsistent with the provisions of any other general statute or special act or any municipal charter or ordinance, the provisions of ~~sections 501 to 513, inclusive, of~~ this act shall be controlling.

Sec. ~~513. (Effective from passage)~~ 13

(a) A person who is aggrieved by a decision of an authority with respect to the establishment of fees, rates, charges or penalties, the sale, lease or other transfer or change of use of real property, the location of purification ~~or~~ for filtration plants, the commencement of any project costing more than five million dollars to repair, improve, construct, reconstruct, enlarge or extend any system of ~~the~~ such authority or the acquisition by purchase, lease or otherwise of any existing system or part thereof, is entitled to judicial review under this section.

(b) Proceedings for review shall be instituted by filing a petition in the superior court for the judicial district in which the constituent municipality is located ~~not later than~~ within thirty days after publication of the decision of ~~the~~ such authority or, if a rehearing is requested, ~~not later than~~ within thirty days after the decision thereon. Copies of the petition shall be served upon ~~the~~ such authority and published in a newspaper or newspapers having a general circulation in the constituent municipality.

(c) The filing of the petition shall not of itself stay enforcement of the decision of ~~the~~ an authority. ~~The~~ Such authority may grant, or the reviewing court may order, a stay upon appropriate terms, provided enforcement of a decision respecting the establishment of fees, rates, charges or penalties may be stayed only after issuance of a judgment for the appellant by the reviewing court.



(d) ~~Not later than~~ Within thirty days after service of the petition, or within such further time as may be allowed by the court, ~~the~~ such authority shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review, which ~~includes the~~ shall include such authority's findings of fact and conclusions of law, separately stated. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before ~~the~~ such authority, the court may refer the case back to ~~the~~ such authority with instructions to take such evidence as the court directs. ~~The~~ Such authority may modify its findings and decision by reason of the additional evidence and shall file that evidence and any modifications, new findings, or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before ~~the~~ an authority, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of ~~the~~ an authority as to the weight of the evidence on questions of fact. The court may affirm the decision of ~~the~~ an authority or remand the case for further proceedings. The court may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the findings, inferences ~~or~~ conclusions, or decisions are ~~, or the decision is~~: (1) ~~In~~ in violation of constitutional provisions, or in violation of ~~any~~ the provision of the general statutes or any special act; (2) in excess of the powers of ~~the~~ an authority; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of

the reliable probative and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion, or clearly constitute an unwarranted exercise of discretion.

(h) In any case in which an aggrieved party claims that he ~~or she is unable to~~cannot pay the costs of an appeal under this section and will thereby be deprived of a right to which ~~the aggrieved party~~he is entitled, he ~~or she~~ shall, within the time permitted for filing the appeal, file with the clerk of the court to which the appeal is to be taken an application for waiver of payment of such fees, costs and necessary expenses, including the requirements of any bond, if any. The application shall conform to the requirements of section 8-2 of the ~~Connecticut~~ Practice Book. After such hearing as the court determines is necessary, the court shall enter its judgment on the application, which judgment shall contain a statement of facts the court has found, with its conclusions thereon. The filing of the application for the waiver shall toll the time limits for the filing of an appeal until such time as a judgment on such application is entered.

(i) ~~The~~An authority shall be not be construed to be an agency within the scope of chapter 54 of the general statutes."<sup>u</sup>

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Padding cell	

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Moved to	4
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