

THE 196th SESSION

Laws Approved To
June 11, 1973

Essex County—Industrial Development Agency

CHAPTER 563

An Act to amend the general municipal law, in relation to creating and establishing the Essex county industrial development agency, and providing for its functions, powers and duties.

Approved and effective June 5, 1973.

Passed on home rule request. See Const. art. IX, § 2(b)(2), and McKinney's Legislative Law § 44.

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

Section 1. The general municipal law is hereby amended by inserting in title two of article eighteen-A, a new section, to be section nine hundred fourteen-a, to read as follows:

§ 914-a. Essex county industrial development agency

For the benefit of the county of Essex and the inhabitants thereof, an industrial development agency, to be known as the ESSEX COUNTY INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter.¹ It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies and provided that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise, shall be limited to the corporate limits of the county of Essex, and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the governing body of the county of Essex. The agency, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.

¹ General Municipal Law §§ 550 to 553.

§ 2. This act shall take effect immediately.

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1013

Documents
455-4218
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Bill 6782

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463-5683

ARTICLE 18-A—INDUSTRIAL DEVELOPMENT

Title

1. Agencies, organization and powers.
2. Municipal industrial development agencies.

TITLE 1—AGENCIES, ORGANIZATION AND POWERS

Sec.

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§ 850. Short title

This chapter may be cited as the "New York State Industrial Development Agency Act."

Added L.1969, c. 1030, § 1.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations $\S$ 873.

C.J.S. Municipal Corporations § 1870 et seq.

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§ 852.¹ Policy and purposes of article

It is hereby declared to be the policy of this state to promote the economic welfare, recreation opportunities and prosperity of its inhabitants and to actively promote, attract, encourage and develop recreation and economically sound commerce and industry through governmental action for the purpose of preventing unemployment and economic deterioration by the creation of industrial development agencies which are hereby declared to be governmental agencies and instrumentalities and to grant to such industrial development agencies the rights and powers provided in this article.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state by the conservation, protection and improvement of the natural resources and environment and to control land, sewer, water, air, noise or general environmental pollution derived from the operation of industrial, manufacturing, warehousing, commercial, winter recreation and research facilities and to grant such industrial development agencies the rights and powers provided by this article with respect to industrial pollution control facilities.

It is hereby further declared to be the policy of this state to protect and promote the health of the inhabitants of this state and to increase trade through promoting the development of winter recreation facilities to provide recreation for the citizens of the state and to attract tourists from other states.

The use of all such rights and powers is a public purpose essential to the public interest, and for which public funds may be expended.

Added L.1969, c. 1030, § 1; amended L.1971, c. 978, § 1; L.1974, c. 954, § 1.

¹ No section 851 has been enacted.

Historical Note

1974 Amendment. L.1974, c. 954, § 1, eff. June 13, 1974, provided for policy to promote recreational opportunities and prosperity of inhabitants, encourage and develop recreation, protect against pollution brought on by winter recreation facilities, and to increase trade by promoting winter recreation facilities to attract tourists.

preceding "such rights and powers" in the second of the two existing sentences, designated such sentence a separate paragraph, and, between such resulting paragraphs, added paragraph beginning "It is hereby further declared to be the policy of this state to protect and promote the health."

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

1971 Amendment. L.1971, c. 978, § 1, eff. July 2, 1971, inserted "all"

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§ 854.¹ Definitions

As used in this act, unless the context otherwise requires:

- (1) "Agency"—shall mean an Industrial Development Agency created pursuant to this act.
- (2) "Bonds"—shall mean the bonds, notes, interim certificates and other obligations issued by the agency pursuant to this act.
- (3) "Municipality"—shall mean any county, city, village, town or Indian reservation in the state.
- (4) "Project"—shall mean any land, any building or other improvement, and all real and personal properties located within the state of New York and within or outside or partially within and partially outside the municipality for whose benefit the agency was created, including, but not limited to, machinery, equipment and other facilities deemed necessary or desirable in connection therewith, or incidental thereto, whether or not now in existence or under construction, which shall be suitable for manufacturing, warehousing, research, commercial or industrial purposes and which may include or mean an industrial pollution control facility or a winter recreation facility, provided, however, no agency shall use its funds in respect of any project wholly or partially outside the municipality for whose benefit the agency was created without the prior consent thereto by the governing body or bodies of all the other municipalities in which a part or parts of the project is, or is to be, located.
- (5) "Governing body"—shall mean the board or body in which the general legislative powers of the municipality are vested.
- (6) "Mortgage"—shall mean a mortgage or other security device.
- (7) "Revenues"—shall mean all rents, revenues, fees, charges and other sources of income derived by the agency from the leasing, sale or other disposition of a project or projects.
- (8) "Industrial pollution control facility"—shall mean any equipment, improvement, structure or facility or any land and any building, structure, facility or other improvement thereon, or any combination thereof, and all real and personal property deemed necessary therewith, which if within any city are not of a character or nature then or formerly furnished or supplied by the city, having to do with or the end purpose of which is the control, abatement or prevention of land, sewer, water, air, noise

or general environmental pollution deriving from the operation of industrial, manufacturing, warehousing, commercial, winter recreation and research facilities, including, but not limited to any air pollution control facility, noise abatement facility, water management facility, waste water collecting system, waste water treatment works, sewage treatment works system, sewage treatment system or solid waste disposal facility or site.

(9) "Winter recreation facility"—shall mean any facility for the use of the general public as spectators or participants in winter recreation activities, including but not limited to skiing, ice skating or ice hockey facilities, together with all buildings, structures, machinery, equipment, facilities and appurtenances thereto which the agency may deem necessary, useful or desirable in connection with the construction, improvement or operation of any of the foregoing, including overnight accommodations incidental thereto and facilities that may permit the use of winter recreation facilities by the general public as participants in other seasonal recreation activities, such as golfing, swimming, tennis and other similar activities, but shall not include facilities for automobile or horse racing or other similar activities.

Added L.1969, c. 1030, § 1; amended L.1971, c. 978, §§ 2, 3; L.1972, c. 190, § 1; L.1973, c. 353, § 1; L.1974, c. 954, §§ 2-4.

¹ No section 853 has been enacted.

Historical Note

1974 Amendment. Subd. (4). L. 1974, c. 954, § 2, eff. June 13, 1974, inserted "and other facilities", "or desirable", "or incidental thereto" and "or a winter recreation facility."

Subd. (8). L.1974, c. 954, § 3, eff. June 13, 1974, inserted "if within any city", substituted "the city" for "a city", and inserted "winter recreation."

Subd. (9). L.1974, c. 954, § 4, eff. June 13, 1974, added subd. (9).

1973 Amendment. Subd. (4). L. 1973, c. 353, § 1, eff. May 22, 1973, inserted "located within the state of New York and within or outside or partially within and partially outside

the municipality for whose benefit the agency was created", and added a proviso clause.

1972 Amendment. Subd. 3. L.1972, c. 190, § 1, eff. May 2, 1972, inserted "or Indian reservation."

1971 Amendment. Subd. (4). L. 1971, c. 978, § 2, eff. July 2, 1971, inserted "and which may include or mean an industrial pollution control facility."

Subd. (8). L.1971, c. 978, § 3, eff. July 2, 1971, added subd. (8).

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

§ 856.¹ Organization of industrial development agencies

1. (a) Upon the establishment of an industrial development agency by special act of the legislature, the governing body of the municipality for whose benefit such agency is established

shall file within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, in the office of the secretary of state, a certificate setting forth: (1) the date of passage of the special act establishing the agency; (2) the name of the agency; (3) the names of the members and their terms of office, specifying which member is the chairman; and (4) facts establishing the need for the establishment of an agency in such municipality.

(b) Every such agency shall be perpetual in duration, except that if (1) such certificate is not filed with the secretary of state within six months after the effective date of the special act of the legislature establishing such agency or before the first day of July, nineteen hundred sixty-nine, whichever date shall be later, or if (2) at the expiration of ten years subsequent to the effective date of the special act, there shall be outstanding no bonds or other obligations theretofore issued by such agency or by the municipality for or in behalf of the agency, then the corporate existence of such agency shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

2. An agency shall be a corporate governmental agency, constituting a public benefit corporation. Except as otherwise provided by special act of the legislature, an agency shall consist of not less than three nor more than five members who shall be appointed by the governing body of each municipality and who shall serve at the pleasure of the appointing authority. A member shall continue to hold office until his successor is appointed and has qualified. The governing body of each municipality shall designate the first chairman and file with the secretary of state a certificate of appointment or reappointment of any member. Such members shall receive no compensation for their services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of their duties.

3. A majority of the members of an agency shall constitute a quorum.

4. Any one or more of the members of an agency may be an official or an employee of the municipality. In the event that an official or an employee of the municipality shall be appointed as a member of the agency, acceptance or retention of such appointment shall not be deemed a forfeiture of his municipal office or employment, or incompatible therewith or affect his tenure or compensation in any way. The term of office of a member of an agency who is an official or an employee of the munic-

ipality when appointed as a member thereof by special act of the legislature creating the industrial development agency shall terminate at the expiration of the term of his municipal office.

Added L.1969, c. 1030, § 1.

¹ No section 855 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations $\S$ 10 et seq. C.J.S. Municipal Corporations § 15.

§ 858.¹ Purposes and powers of the agency

The purposes of the agency shall be to promote, develop, encourage and assist in the acquiring, constructing, reconstructing, improving, maintaining, equipping and furnishing industrial, manufacturing, warehousing, commercial, research and winter recreation facilities including industrial pollution control facilities and thereby advance the job opportunities, health, general prosperity and economic welfare of the people of the state of New York and to improve their recreation opportunities, prosperity and standard of living; and to carry out the aforesaid purposes, each agency shall have the following powers:

- (1) To sue and be sued;
- (2) To have a seal and alter the same at pleasure;
- (3) To acquire, hold and dispose of personal property for its corporate purposes;

(4) To acquire by purchase, grant, lease, gift, condemnation, or otherwise and to use, real property or rights or easements therein necessary for its corporate purposes taking into consideration the local zoning and planning regulations as well as regional and local comprehensive land use plans, and to sell, convey, mortgage, lease, pledge, exchange or otherwise dispose of any such property in such manner as the agency shall determine.

(5) To make by-laws for the management and regulation of its affairs and, subject to agreements with its bondholders, for the regulation of the use of a project or projects.

(6) With the consent of the municipality, to use agents, employees and facilities of the municipality, paying the mu-

municipality its agreed proportion of the compensation or costs;

(7) To appoint officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the agency;

(8) To appoint an attorney, who may be the counsel of the municipality, and to fix his compensation for services which shall be payable to him in addition to his official compensation, and to retain and employ private consultants for professional and technical assistance and advice;

(9) To make contracts and leases, and to execute all instruments necessary or convenient to or with any person, firm, partnership or corporation, either public or private;

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

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

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

(13) To grant options to renew any lease with respect to any project or projects and to grant options to buy any project at such price as the agency may deem desirable;

(14) To designate the depositories of its money either within or without the state;

(15) To establish and re-establish its fiscal year; and
(16) To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this title.

Added L.1969, c. 1030, § 1; amended L.1971, c. 978, § 4; L.1974, c. 669, § 1; L.1974, c. 954, § 5.

¹ No section 857 has been enacted.

Historical Note

1974 Amendments. Opening part, quiting consideration of local zoning L.1974, c. 954, § 5, eff. June 13, 1974, and planning regulations as well as inserted "winter recreation" and regional and local comprehensive "recreation opportunities, prosperity;" land use plans.

Subd. 4. L.1974, c. 669, § 1, eff. 1971 Amendment. Opening paragraph, L.1971, c. 978, § 4, eff. July May 30, 1974, inserted provisions re-

2, 1971, inserted "including industrial pollution control facilities" following "research facilities" and "health" following "job opportunities;" take effect May 26, 1969.

Notes of Decisions

1. Gifts and loans

There is no authority for a county to make gifts of county funds or property to a county industrial development agency, but money may be paid or property transferred pursuant to the terms of an appropriate contract. Op.State Compt. 72-984.

§ 860.¹ Moneys of the agency

The agency shall have power to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the agency, and all banks and trust companies are authorized to give such security for such deposits.

Added L.1969, c. 1030, § 1.

¹ No section 859 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, effect May 26, 1969. provided that this section shall take

Library References

Municipal Corporations §§879. C.J.S. Municipal Corporations § 1878.

§ 862.¹ Restrictions on funds of the agency

No funds of the agency shall be used in respect of any project if the completion thereof would result in the removal of an industrial or manufacturing plant of the project occupant from one area of the state to another area of the state or in the abandonment of one or more plants or facilities of the project occupant located within the state, provided, however, that neither restriction shall apply if the agency shall determine on the basis of the application before it that the project is reasonably necessary to discourage the project occupant from removing such other plant or facility to a location outside the state or is reasonably necessary to preserve the competitive position of the project occupant in its respective industry.

Added L.1969, c. 1030, § 1.

¹ No section 861 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations ~~§§~~ 870.
C.J.S. Municipal Corporations § 1835 et seq.

§ 864.¹ **Bonds of the agency**

(1) The agency shall have the power and is hereby authorized from time to time to issue negotiable bonds for any of its corporate purposes without limitation as to amount. The agency shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any other purpose hereinabove described. The refunding bonds may be exchanged for the bonds to be refunded, with such cash adjustments as may be agreed, or may be sold and the proceeds applied to the purchase or redemption of the bonds to be refunded. Except as may otherwise be expressly provided by the agency, the bonds of every issue shall be special obligations of the agency payable solely from revenues derived from the leasing, sale or other disposition of a project, subject only to any agreements with the holders of particular bonds pledging any particular moneys or revenues. Whether or not the bonds are of such form and character as to be negotiable instruments under article eight of the uniform commercial code,² the bonds shall be, and are hereby made, negotiable instruments within the meaning of and for all the purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

(2) The bonds shall be authorized by resolution of the agency and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, either within or without the state, and be subject to such terms of redemption as such resolution or resolutions may provide. The bonds may be sold at public or private sale at such price or prices as the agency shall determine.

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

(a) pledging all or any part of the revenues derived from the leasing, sale or other disposition of a project or projects to secure the payment of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rentals, fees, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(c) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(d) limitations on the right of the agency to restrict and regulate the use of a project;

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

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

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

(h) vesting in a trustee or trustees such property, rights, powers and duties in trust as the agency may determine which may include any or all the rights, powers and duties of the trustees appointed by the bondholders and limiting or abrogating the right of the bondholders to appoint a trustee or limiting the rights, duties and powers of trustee;

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

Added L.1969, c. 1030, § 1.

¹ No section 863 has been enacted.

² Uniform Commercial Code § 8-101 et seq.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations $\S\S$ 911 et seq., C.J.S. Municipal Corporations $\S\S$ 1907, 1908.

§ 866.¹ Notes of the agency

The agency shall have power from time to time to issue notes and from time to time to issue renewal notes (herein referred to as notes) maturing not later than five years from their respective original dates for any purpose or purposes for which bonds may be issued, whenever the agency shall determine that payment thereof can be made in full from any moneys or revenues which the agency expects to receive from any source. The agency may secure the notes in the same manner and with the same effect as herein provided for bonds. The notes shall be issued in the same manner as bonds. The agency shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and the agency shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes or violation of any of the obligations of the agency to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the agency.

Added L.1969, c. 1030, § 1.

¹ No section 865 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations $\S\S$ 908. C.J.S. Municipal Corporations $\S$ 1904.

§ 868.¹ Agreements of the municipality and state

The municipality is authorized to, and the state does hereby, pledge to and agree with the holders of the bonds or notes that neither the municipality nor the state, respectively, will limit or alter the rights, hereby vested in the agency to acquire, construct, reconstruct, improve, maintain, equip and furnish the project or projects, to establish and collect rentals, fees and oth-

er charges and to fulfill the terms of any agreements made with the holders of the bonds or notes nor in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes, together with interest thereon, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged.

Added L.1969, c. 1030, § 1.

¹ No section 867 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations $\S\S$ 908, 937. C.J.S. Municipal Corporations $\S\S$ 1904, 1956 et seq.

§ 870.¹ State and municipality not liable on bonds or notes

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

Added L.1969, c. 1030, § 1.

¹ No section 869 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations $\S\S$ 908, 937. C.J.S. Municipal Corporations $\S\S$ 1904, 1956 et seq.

§ 872.¹ Bonds and notes as legal investment

The bonds and notes are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whatsoever except

as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or notes or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds or notes are also hereby made securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

Added L.1969, c. 1030, § 1.

¹ No section 871 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Trusts ~~§~~217.3(7).

C.J.S. Trusts § 326.

Notes of Decisions

1. Municipalities

Municipalities may legally invest county industrial development agency funds in the bonds and notes of a cy. Op.State Compt. 72-984.

§ 874.¹ Tax exemptions

(1) It is hereby determined that the creation of the agency and the carrying out of its corporate purposes is in all respects for the benefit of the people of the state of New York and is a public purpose, and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall be required to pay no taxes or assessments upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

(2) Any bonds or notes issued pursuant to this title, together with the income therefrom, as well as the property of the agency, shall be exempt from taxation, except for transfer and estate taxes.

Added L.1969, c. 1030, § 1.

¹ No section 873 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Cross References

Exemptions from taxation, see Real Property Tax Law § 412-a.

Library References

Taxation ~~§~~217.

C.J.S. Taxation § 260.

Notes of Decisions

Activities within exemption 1
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1. Activities within exemption

A rice track owned by a county industrial development agency is a commercial enterprise that falls within the scope of activities which such agency is statutorily authorized to pursue and is, therefore, entitled to an exemption from real property taxation. 3 Op.Counsel S.B.E.A. No. 76.

2. Special assessments and levies

The exemption provided by Real Property Tax Law § 412-a and this

section applies only to general taxes and not to special assessments and special ad valorem levies. 1 Op. Counsel S.B.E.A. No. 23.

3. Review
Since normal grievance procedures were not available to review realty taxes which lessee of exempt property owned by industrial development agency had agreed to pay, contract of lessee with town and board of education providing for arbitration of disputes relating to lessee's realty taxes was not illegal or unconstitutional. Baker v. Cole-Layer-Trumble Co., 1973, 42 A.D.2d 581, 344 N.Y.S.2d 693.

§ 876.¹ Tax contract by the state

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

Added L.1969, c. 1030, § 1.

¹ No section 875 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Taxation ~~§~~218.

C.J.S. Taxation § 260.

§ 878.¹ Remedies of bondholders and noteholders

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

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds or notes, then outstanding shall, in his or its own name:

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

(b) bring suit upon such bonds or notes;

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

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

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

(3) The supreme court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action or proceeding shall be laid in the county in which the project or projects are located.

(4) Before declaring the principal of all such bonds due and payable, the trustee shall first give thirty days' notice in writing to the agency.

(5) Any such trustee, whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of a project, the revenues of which are pledged for the security of the bonds of such issue, and such receiver may enter and take possession of such part or parts of the project and, subject to any pledge or agreement with bondholders or noteholders, shall take possession of all moneys and other property derived from or applicable to the acquisition, construction, operation, maintenance and reconstruction of such part or parts of the project and proceed with the acquisition of any necessary real property in connection with the project that the agency has covenanted to construct, and with any construction which the agency is under obligation to do and to operate, maintain and reconstruct such part or parts of the project and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders or noteholders relating thereto and perform the public duties and carry out the agreements and obligations of the agency under the direction of the court. In any suit, action or proceeding by the trustee, the fee, counsel fees and expenses of the trustee and of the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from such project.

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

Added L.1969, c. 1030, § 1.

¹ No section 877 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations ~~§§~~987. C.J.S. Municipal Corporations § 1956 et seq.

§ 880.¹ Actions against the agency

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

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

Added L.1969, c. 1030, § 1.

¹ No section 879 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations ~~§§~~741(1), C.J.S. Municipal Corporations §§ 742(4), 922 et seq., 933 to 937.

§ 882.¹ Termination of the agency

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

Added L.1969, c. 1030, § 1.

¹ No section 881 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations ~~§§~~51, C.J.S. Municipal Corporations §§ 103 to 105.

§ 884.¹ Public bidding

The provisions of any law relating to the requirement of public bidding with respect to the construction of public facilities or projects shall not be applicable to the acquisition, construction, reconstruction, improvement, maintenance, equipping and furnishing of projects authorized by this act.

Added L.1969, c. 1030, § 1.

¹ No section 883 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

Library References

Municipal Corporations ~~§§~~236, C.J.S. Municipal Corporations § 996.

§ 886.¹ Title not affected if in part unconstitutional or ineffective

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

Added L.1969, c. 1030, § 1.

¹ No section 885 has been enacted.

Historical Note

Effective Date. L.1969, c. 1030, § 3, provided that this section shall take effect May 26, 1969.

§ 888.¹ Inconsistent provisions in other acts superseded

Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local laws of the municipality, the provisions of this title shall be controlling except in cases of inconsistency with the Indian law.

Added L.1969, c. 1030, § 1; amended L.1972, c. 190, § 2.

¹ No section 887 has been enacted.

Historical Note

1972 Amendment. L.1972, c. 190, § 2, eff. May 2, 1972, inserted "except" in cases of inconsistency with the Indian law." ³, provided that this section shall take effect May 26, 1969.

TITLE 2—MUNICIPAL INDUSTRIAL DEVELOPMENT AGENCIES

Sec.

- 890. Wayne county industrial development agency.
- 890-a. City of Dunkirk industrial development agency.
- 890-b. County of Cattaraugus industrial development agency.
- 890-c. Counties of Warren and Washington industrial development agency.
- 890-d. City of Port Jervis industrial development agency.
- 890-e. City of Salamanca industrial development agency.
- 890-g. Village of Greenport industrial development agency.
- 890-h. County of Saratoga industrial development agency.
- 890-i. City of Amsterdam industrial development agency.
- 891. Town of Wallkill industrial development agency.
- 891. Erie county industrial development agency.
- 891-e. Town of Shawangunk, Ulster county industrial development agency.
- 891-f. Village of Ossining industrial development agency.
- 891-g. Town of Ossining industrial development agency.
- 892. Town of Brookhaven industrial development agency.
- 892. Cayuga county industrial development agency.
- 892-a. Schuyler county industrial development agency.
- 892-d. Town of Malone county of Franklin industrial development agency.
- 892-e. County of Jefferson industrial development agency.
- 892-e. County of Orleans industrial development agency.
- 892-f. Ontario county industrial development agency.
- 893. Madison county industrial development agency.
- 893-a. Seneca county industrial development agency.
- 894. Town of Queensbury industrial development agency.
- 895. Onondaga county industrial development agency.
- 895-a. Broome county industrial development agency.
- 895-b. Tompkins county industrial development agency.
- 895-c. Fulton county industrial development agency.
- 895-d. Montgomery county industrial development agency.
- 895-e. Genesee county industrial development agency.
- 895-f. County of Clinton industrial development agency.
- 895-g. Town of Willsboro industrial development agency.
- 895-h. County of Chautauqua industrial development agency.
- 895-i. Steuben county industrial development agency.
- 895-j. Greene county industrial development agency.
- 895-k. Livingston county industrial development agency.
- 896. Chemung county industrial development agency.
- 896-a. The city of Cohoes industrial development agency.
- 897. Town of Erwin industrial development agency.
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Sec.

- 898. Herkimer county industrial development agency.
- 898-a. Town of Lancaster industrial development agency.
- 898-b. Town of Islip industrial development agency.
- 899. Jamestown industrial development agency.
- 900-a. Village of Port Chester industrial development agency.
- 901. Oneida county industrial development agency.
- 901-a. Town of Clarence, Erie county, industrial development agency.
- 901-b. Wyoming county industrial development agency.
- 902. Cortland county industrial development agency.
- 902-a. County of Lewis industrial development agency.
- 903. City of Yonkers industrial development agency.
- 903-a. City of Albany industrial development agency.
- 903-c. City of Rensselaer industrial development agency.
- 903-d. Rensselaer county industrial development agency.
- 904. Town of Hamptonburgh industrial development agency.
- 904-a. Town of Warwick industrial development agency.
- 905. Town of Hempstead industrial development agency.
- 905-a. Schoharie county industrial development agency.
- 906. County of Sullivan industrial development agency.
- 906-a. Allegany county industrial development agency.
- 907-a. Town of Babylon industrial development agency.
- 907-b. The city of Beacon industrial development agency.
- 908. County of Delaware industrial development agency.
- 908-a. Village of Monticello industrial development agency.
- 909. County of Franklin industrial development agency.
- 909-a. Town of Guilderland industrial development agency.
- 909-b. Town of Bethlehem industrial development agency.
- 910. Town of Barton industrial development agency.
- 910-a. County of Otsego industrial development agency.
- 911. Town of Dunkirk industrial development agency.
- 911. Town of New Windsor industrial development agency.
- 911-b. County of Oswego industrial development agency.
- 911-c. Town of Montgomery industrial development agency.
- 911-e. Town of West Turin industrial development agency.
- 912. Tioga county industrial development agency.
- 912. Orange county industrial development agency.
- 912-a. County of Putnam industrial development agency.
- 913. City of Newburgh industrial development agency.
- 913-a. Town of East Greenbush industrial development agency.
- 914. St. Lawrence county industrial development agency.
- 914-a. Essex county industrial development agency.
- 914-a. Town of Amherst industrial development agency.
- 914-a. County of Chenango industrial development agency.
- 915. Deerpark industrial development agency.
- 916. County of Monroe industrial development agency.
- 916-a. The Niagara county industrial development agency.

Historical Note

Effective Date. L.1973, c. 428, § 2, provided that this section shall take effect June 5, 1973.

§ 914. St. Lawrence county industrial development agency

For the benefit of the county of St. Lawrence and the inhabitants thereof, an industrial development agency, to be known as the ST. LAWRENCE COUNTY INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies and provide that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise shall be limited to the corporate limits of the county of St. Lawrence, and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the governing body of the county of St. Lawrence. The agency, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.

Added L.1971, c. 358, § 1.

Historical Note

Effective Date. L.1971, c. 358, § 2, provided that this section shall take effect June 1, 1971.

Library References

Municipal Corporations C-3 et seq. C.J.S. Municipal Corporations § 6.

§ 914-a. Essex county industrial development agency [See, also, §§ 914-a post.]

For the benefit of the county of Essex and the inhabitants thereof, an industrial development agency, to be known as the ESSEX COUNTY INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the

purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies and provided that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise, shall be limited to the corporate limits of the county of Essex, and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the governing body of the county of Essex. The agency, its members, officers and employees and its operations and activities shall in all respects be governed by the provisions of title one of article eighteen-A of this chapter.

Added L.1973, c. 563, § 1.

Historical Note

Effective Date. L.1973, c. 563, § 2, provided that this section shall take effect June 5, 1973.

§ 914-a. Town of Amherst industrial development agency [See, also, §§ 914-a ante and post.]

For the benefit of the town of Amherst in the county of Erie, and the inhabitants thereof, an industrial development agency, to be known as the TOWN OF AMHERST INDUSTRIAL DEVELOPMENT AGENCY, is hereby established for the accomplishment of any or all of the purposes specified in title one of article eighteen-A of this chapter. It shall constitute a body corporate and politic, and be perpetual in duration. It shall have the powers and duties now or hereafter conferred by title one of article eighteen-A of this chapter upon industrial development agencies and provided that the exercise of the powers by such agency with respect to the acquisition of real property whether by purchase, condemnation or otherwise, shall be limited to the corporate limits of the town of Amherst, and such agency shall take into consideration the local zoning and planning regulations as well as the regional and local comprehensive land use plans. It shall be organized in a manner prescribed by and be subject to the provisions of title one of article eighteen-A of this chapter. Its members shall be appointed by the governing body of