

CHAPTER 1070

AN ACT to amend the public authorities in relation to abolishing the Ogdensburg port authority and transferring all its functions and property to the Ogdensburg bridge authority, reconstituted and continued as the Ogdensburg bridge and port authority, expanding the powers of such authority and the territory of the Ogdensburg port district, and amending chapter two hundred eighteen of the laws of nineteen hundred fifty-eight, entitled "An act making appropriations for the support of government" in relation to the first instance appropriation made thereby to the Ogdensburg bridge authority.

Became a law April 30, 1960, with the approval of the Governor. Passed, by a majority vote, three-fifths being present.

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

Section 1. Article three of the public authorities law is hereby amended by adding thereto a new title, to be title nine, to read as follows:

TITLE 9

Section 725. Ogdensburg bridge authority reconstituted and continued as Ogdensburg bridge and port authority.

726. Ogdensburg bridge and port authority.

727. Ogdensburg port authority abolished; transfer of functions.

728. Transfer of records and property.

729. Continuity of authority; status of acts.

730. Unfinished business; pending actions and proceedings.

731. Terms occurring in law, or in contracts or documents.

732. Existing rights and remedies.

733. Funds of the authority.

734. Application of consistent provisions.

§ 725. *Ogdensburg bridge authority reconstituted and continued as Ogdensburg bridge and port authority. The Ogdensburg bridge authority, created pursuant to the provisions of title eight of article three of this chapter, is hereby reconstituted the Ogdensburg bridge and port authority and, as thus reconstituted is hereby continued with all the jurisdiction, functions, powers and duties possessed, exercised or performed by it pursuant to such title, together with such additional jurisdiction, functions, powers and duties as may be conferred or imposed by this title.*

§ 726. *Ogdensburg bridge and port authority. Notwithstanding any other provisions of this chapter, the members of the Ogdensburg bridge authority in office on the effective date of*

ENABLING LEGISLATION

this title shall become and be the members of the board of and shall thereafter constitute, the Ogdensburg bridge and port authority, and shall hold office for the balance of the terms for which they were severally appointed.

All of the provisions of title eight of article three of this chapter, respecting the qualifications, appointment, terms, officers and removal of members of the Ogdensburg bridge authority, including the filling of vacancies occurring for any reason, shall hereafter be applicable to the members of the Ogdensburg bridge and port authority, except that all members shall hereafter be appointed by and with the advice and consent of the senate.

§ 727. Ogdensburg port authority abolished; transfer of functions. Except as hereinafter provided, the Ogdensburg port authority, created pursuant to the provisions of title three of article six of this chapter, is hereby abolished, and all of the jurisdiction, functions, powers and duties possessed, exercised or performed by such authority, of whatsoever nature or kind, are hereby transferred and assigned to, and devolved upon, the Ogdensburg bridge and port authority.

§ 728. Transfer of records and property. Except as hereinafter provided, all the contracts, books, maps, plans, papers, records, moneys and property, of whatsoever nature or kind, owned or possessed or under the jurisdiction or control of the Ogdensburg port authority, and all debts or obligations thereof, are hereby transferred and assigned to, and devolved upon, the Ogdensburg bridge and port authority, and the same or evidences thereof shall be delivered to the secretary of such authority who is hereby authorized to take possession thereof.

§ 729. Continuity of authority; status of acts. For the purposes of succession, all of the functions, powers and duties of the Ogdensburg bridge authority, and of the Ogdensburg port authority, as prescribed and provided, respectively, by the provisions of title eight of article three, and title three of article six of this chapter, and hereby continued in, transferred and assigned to, and devolved upon, the Ogdensburg bridge and port authority, shall be deemed to constitute a continuation of the same, and all the acts, orders, rules, regulations and determinations of either the Ogdensburg bridge authority or the Ogdensburg port authority shall have, and continue with, the same force and effect as though done or made by the Ogdensburg bridge and port authority.

§ 730. Unfinished business; pending actions and proceedings. Any business or matter heretofore undertaken or commenced by or before the Ogdensburg bridge authority or the Ogdensburg port authority, or any action or proceeding brought by or against either of such authorities pertaining to or connected with the jurisdiction, functions, powers and duties hereby continued in, transferred and assigned to, or devolved upon, the Ogdensburg bridge and port authority, may be conducted, completed, prosecuted and defended by and in the name of the Ogdensburg bridge and port authority. In all such actions and proceedings, the Ogdensburg bridge and port authority, upon application to the court, may be substituted as a party.

§ 731. Terms occurring in law, or in contracts or documents. Whenever the Ogdensburg bridge authority or the Ogdensburg port authority is referred to or designated in any law, or in any contract or document, such reference or designation shall be deemed to refer to and include the Ogdensburg bridge and port authority, to the extent that such law, contract or document pertains to matters which are within its jurisdiction by reason of the continuation, transfer, assignment and devolution of jurisdiction, functions, powers and duties made to it by this title.

§ 732. Existing rights and remedies. No existing right or remedy of any character shall be lost, or otherwise affected by reason of the enactment of this title.

§ 733. Funds of the authority. Notwithstanding the reconstitution and continuation of the Ogdensburg bridge authority and the abolition of the Ogdensburg port authority, effectuated by this title, or any other provision of this chapter, moneys constituting the fund or funds of either the Ogdensburg bridge authority or the Ogdensburg port authority shall remain and be kept separate and apart, and shall be applied for the purposes, including the payment of debts and obligations, of the appropriate authority on whose account such moneys were received.

Notwithstanding any other provision of law, and except as hereinafter provided in section thirteen hundred eighty-seven of this chapter, all moneys hereafter received by the Ogdensburg bridge and port authority pursuant to the provisions of title eight of article three of this chapter, shall be kept separate and apart and used exclusively for the purposes of such title, and in like manner all moneys hereafter received pursuant to the provisions of title three of article six of this chapter, shall be kept separate and apart and used exclusively for the purposes of such title; provided, however, that the compensation and expenses of the Ogdensburg bridge and port authority, as reconstituted and continued by this part, and of its officers and employees shall be paid from such separate funds, in such proportion as the members of the authority deem proper.

§ 734. Application of consistent provisions. All of the provisions of title eight of article three and of title three of article six of this chapter, so far as the same are applicable and not inconsistent with this title, shall apply to the Ogdensburg bridge and port authority; provided, however, that the provisions of title eight of article three shall supersede the provisions of title three of article six, in the event that the same are inconsistent.

§ 2. Subdivision two of section seven hundred four of such law, as such section was amended by chapter eight hundred sixty-four of the laws of nineteen hundred fifty-six, is hereby amended to read as follows:

2. The state hereby further authorizes the board of commissioners of the land office, with the consent of the commissioner of mental hygiene and approval of the director of the budget, to grant to the authority a portion of the lands of the Saint Lawrence state hospital located in the county of Saint Law-

rence, upon such terms and conditions, including consideration, as such board may determine. The portion of such lands of such hospital herein authorized to be granted shall be taken from the westerly end of the hospital property on the northerly side of Proctor avenue and to be bounded on the south by the northerly line of Proctor avenue, on the north and northwest by the high water line of the St. Lawrence river, on the west by the westerly boundary line of said hospital property and on the east by a line running from the northerly line of Proctor avenue northerly to the high water line of the Saint Lawrence river so as to contain within said bounds approximately seventy-five acres of land together with a triangular parcel of land between Proctor avenue and the northerly line of arterial route thirty-seven, bounded on the west by a westerly boundary line of said hospital grounds, on the south and east by the northerly boundary of arterial route thirty-seven, and on the north by the south side of Proctor avenue, excepting therefrom any and all lands taken and devoted to highway purposes of the state of New York. The department of public works shall make an accurate survey of the [parcel] parcels so to be granted and the [grant] grants to the authority may describe the land according to such [survey] surveys. The board of commissioners of the land office in determining the amount of the consideration for such [grant] grants shall take into account the obsolescence of the improvements on the land conveyed, the cost to the authority as estimated by the superintendent of public works, of demolition of such facilities as are considered obsolete, and providing such improvement to the Saint Lawrence state hospital property as the commissioner of mental hygiene with the approval of the director of the budget, deems necessary in consequence of the [grant] grants herein authorized and such [grant] grants shall contain appropriate conditions to ensure the providing of such improvements by the authority at its cost and expense. Actual payment of the consideration for the [grant] grants, as determined by the board of commissioners of the land office, shall not be required as a condition precedent to the [grant] grants, but the amount thereof shall be certified by the board to the state comptroller and shall be deemed an advance to the authority by the state to be repaid in the same manner as provided in section seven hundred fifteen of this article for repayment of appropriations made by the state to the authority.

§ 3. Section thirteen hundred seventy-seven of such law, as added by chapter six hundred forty-seven of the laws of nineteen hundred fifty-eight, is hereby amended to read as follows:

§ 1377. Ogdensburg port district. There is hereby created and established a district to be known as the "Ogdensburg district" which shall embrace the city of Ogdensburg and those areas of the town of Lisbon and the town of Oswegatchie within a distance of two miles from the city limits of the city of Ogdensburg, New York, and all lands and water under and in the St. Lawrence river lying or situated within the boundaries of the city of Ogdensburg and those areas of the towns of

Lisbon and Oswegatchie within a distance of two miles from the city limits of the city of Ogdensburg, New York, subject to the right, title, interest and control of the state under the constitution or any law of the state of New York and subject to the right, title, interest and control of the United States under any law of the United States of America.

§ 4. Section thirteen hundred seventy-nine of such law is hereby amended by inserting therein a new subdivision, to be subdivision twenty-two, to read as follows:

(22) *Proceed with the development of the port district and to improve, construct and develop such facilities as it may deem necessary including the leasing or rental of its properties and facilities for public or private purposes in order to make the development thereof economically feasible; provided, however, that no lease shall be made for a period of more than twenty years from the date of its execution.*

§ 5. Section thirteen hundred eighty-seven of such law, as added by chapter six hundred forty-seven of the laws of nineteen hundred fifty-eight, is hereby repealed and a new section thirteen hundred eighty-seven is hereby inserted to place thereof, to read as follows:

§ 1387. *Special port development and improvement powers.*

1. *The authority shall have power to make rules and regulations: (a) for the development, improvement, promotion, preservation and utilization of the port district and projects, including the Ogdensburg municipal airport when and if acquired; and (b) for the payment and collection of fees, charges, rentals and other receipts from its properties and facilities within the port district, including the Ogdensburg municipal airport when and if acquired, which fees, charges, rentals and other receipts are hereinafter referred to as "port revenue." Until such time as the state of New York is fully reimbursed by the authority for the total amount of money advanced by the state to the authority no rule, regulation, schedule or rate in relation to or governing port revenues shall become effective or controlling unless approved by the director of the budget of the state of New York.*

2. *Until such time as the state of New York is fully reimbursed for the total amount of money advanced by the state to the authority all port revenue received by the authority shall be paid to the state comptroller as agent of the authority and deposited in a separate bank account or accounts to be known as the "Ogdensburg port fund." The moneys in such fund shall be available subject to the approval of the director of the budget of the state of New York for the payment of any and all costs and expenditures incurred in relation to the acquisition of property, construction, equipment, maintenance, repair, operation and improvement of the port and airport. The moneys of the Ogdensburg port fund when made available shall be paid from such fund on the audit and warrant of the state comptroller on vouchers approved solely by the chairman of the authority or his duly designated officer.*

3. *All moneys in the Ogdensburg port fund in excess of the sum of two hundred thousand dollars shall on the first day of each month be paid by the authority to the state comptroller.*

The comptroller is hereby authorized to receive from the authority such amounts as shall be paid to the comptroller pursuant to the provisions of this section and to credit all such amounts to the capital construction fund. Upon certification by the state comptroller that all moneys due the state have been paid in full, the remaining balance of such fund shall be available to such authority and may be used by such authority for any corporate purpose. The accounts of the authority shall be subject to examination by the state comptroller. The state comptroller is hereby authorized and empowered to examine the accounts and books of the authority at such periods of time he may deem necessary, including its receipts, disbursements, contracts, leases and any other matters relating to its financial standing and fiscal affairs.

§ 6. The appropriation made to the Ogdensburg bridge authority by chapter two hundred eighteen, section seven, of the laws of nineteen hundred fifty-eight and as amended by section fourteen of chapter one hundred ninety-six of the laws of nineteen hundred fifty-nine, and as reappropriated by section nine of chapter one hundred forty-four of the laws of nineteen hundred sixty, is hereby amended and reappropriated to read:

The sum of seven million dollars (\$7,000,000) or so much thereof as may be necessary, is hereby appropriated in the first instance from the capital construction fund and authorized to be paid as hereinafter provided to the department of public works, at the request of and as an advance to the Ogdensburg Bridge Authority for the completion of construction of the Ogdensburg bridge connecting Ogdensburg and Prescott across the St. Lawrence river as authorized by the Ogdensburg Bridge Authority Act, including the cost of appurtenant facilities, and of which not more than [two hundred fifty thousand dollars (\$250,000)] *three hundred and fifty thousand dollars (\$350,000)* may be used for financing in the first instance the Ogdensburg bridge fund as established by section seven hundred five of the public authorities law, as added by a chapter of the laws of nineteen hundred fifty-nine; such amount to be in addition and supplemental to the sum of fifteen million dollars (\$15,000,000) appropriated by section nine, of chapter eight hundred sixty-four, of the laws of nineteen hundred fifty-six.

The director of the budget shall not issue any certificate of approval of availability until the Ogdensburg Bridge Authority has entered into a formal agreement with the comptroller providing that the Authority shall issue and sell the bonds of the Authority within a period of one year and six months of the date of opening the bridge for automotive traffic in such amount as shall be necessary to reimburse the State in full of the total amount advanced and expended from this appropriation in addition to the total sum advanced and expended from the appropriation made by section nine, of chapter eight hundred sixty-four, of the laws of nineteen hundred fifty-six, and in any event repay the State in full out of the proceeds of the first bonds issued by the Authority.

The proceeds of the sale of such bonds shall thereupon be paid to the comptroller for reimbursement of the advances

made by the State for the construction of the Ogdensburg bridge, appurtenant facilities and costs incidental thereto. The comptroller is hereby authorized to receive from the Ogdensburg Bridge Authority amounts of money equal to the amounts expended from this appropriation and to deposit same to the credit of the capital construction fund so the State shall be reimbursed for the full amount of any and all such expenditures.

The superintendent of public works is hereby authorized to enter into a formal agreement or agreements with the Ogdensburg Bridge Authority for the completion of the Ogdensburg bridge and appurtenant facilities.

The monies hereby appropriated when made available shall be paid from the treasury on the audit and warrant of the comptroller on vouchers approved by the superintendent of public works and by the chairman of the Ogdensburg Bridge Authority . . . 7,000,000.00 (re. \$6,999,188.01).

The balance of this appropriation remaining unexpended and not otherwise obligated or required for the completion of the Ogdensburg bridge or for payment of any costs or expenses incidental thereto may, in the sum not to exceed two million dollars (\$2,000,000), be used and paid as hereinafter provided to the department of public works, at the request of and as an advance, to the Ogdensburg Bridge and Port Authority for port improvements, including but not limited to, acquisition of property and equipment, construction of transportation terminals, dredging, bulk-heading, alterations, modernization and rehabilitation of facilities, ground improvements, drainage and reclamation by fill of under water lands, installation, relocation and reconstruction of utility facilities and railroad service tracks and all costs appurtenant and incidental thereto, such improvements being hereby designated as a port development and improvement project, and of the amount hereby authorized, not more than two hundred thousand dollars (\$200,000) may be used for financing in the first instance the Ogdensburg port fund, as established by subdivision two of section thirteen hundred eighty-seven of title nine of the public authorities law, as such law is amended by this act.

Notwithstanding the provisions of any general or special law, no part of any such appropriation shall be available for the purpose designated until a certificate of approval of availability shall have been issued by the director of the budget, and a copy of such certificate filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. Such certificate may be amended from time to time subject to the approval of the director of the budget and a copy of each such amendment shall be filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee. All moneys expended from this appropriation for the port development and improvement project shall be repaid to the state by the authority from the proceeds of the first bonds issued by the authority, exclusive of bonds issued for bridge purposes, or if such bonds are not issued, from port

CHAPTER 1071

AN ACT to amend the public authorities law, in relation to the establishment of an industrial park by the Ogdensburg port authority on the site of certain state owned land to be acquired by the authority.

Became a law April 30, 1960, with the approval of the Governor. Passed, by a majority vote, three-fifths being present.

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

Section 1. Subdivision one of section one thousand three hundred eighty-three of the public authorities law, as added by chapter six hundred forty-seven of the laws of nineteen hundred fifty-eight, is hereby amended to read as follows:

1. The board of commissioners of the land office shall have power, in its discretion, from time to time to transfer and convey to the authority for such consideration as may be determined by it to be paid to the state of New York unappropriated state lands and lands under water which the authority shall certify to be necessary or desirable for the corporate purposes of the authority. *The state hereby further authorizes the board of commissioners of the land office, with the consent of the commissioner of mental hygiene and approval of the director of the budget, to grant to the authority a portion of the lands of the Saint Lawrence state hospital located in the county of Saint Lawrence, upon such terms and conditions, including consideration, as such board may determine. The portion of such lands of such hospital herein authorized to be granted shall be taken from the southerly end of the hospital property adjacent to state highway route number thirty-seven, together with two parcels of land acquired by two deeds, one from Orville Cruikshank and Cora Cruikshank McEwen, dated October 11, 1945, and recorded in St. Lawrence county clerk's office on November 8, 1945, in Liber 365 of deeds at page 47, containing 96.42 acres, more or less, and the other from Hubert Webb and Irene Webb, dated October 13, 1945, and recorded in the St. Lawrence county clerk's office on November 8, 1945, in Liber 365 of deeds at page 45, containing 34 acres, more or less, such lands being former farm lands of such hospital. The department of public works shall make an accurate survey of the parcels of such farm land to be granted and the grant to the authority may describe the land according to such survey. The land so conveyed by the state to the authority shall be utilized and developed by the authority for the establishment of an industrial park.*

§ 2. This act shall take effect April first, nineteen hundred sixty.

EXPLANATION — Matter in italics is new; matter in brackets [] is old law to be omitted.

STATE OF NEW YORK, } ss:
Department of State. }

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

CAROLINE K. SIMON,
Secretary of State

revenue as defined in subdivision one of section thirteen hundred eighty-seven of article nine of the public authorities law as such law is amended by this act.

The director of the budget shall not issue any certificate of approval of availability until the Ogdensburg Bridge and Port Authority has entered into a written agreement with the director of the budget providing that such authority shall reimburse the state of New York in full for all moneys advanced by the state from this appropriation for the port development and improvement project, from the proceeds of the first bonds issued by such authority, exclusive of bonds issued for bridge purposes, and shall issue and sell the bonds of the authority within a period of two years of the date of the completion of the port development and improvement project to the extent as financed by this appropriation and as such completion shall be certified by the superintendent of public works, and further providing that until such time as the authority shall issue bonds, that the authority shall make such payments from the port revenue, as such term is defined in section thirteen hundred eighty-seven of the public authorities law, as added by section five of this act, after deduction therefrom of the amount required for the purposes of the Ogdensburg Bridge and Port fund; such payments shall be made in such amounts and at such times as may be determined by the director of the budget.

The state comptroller is hereby authorized to receive from the Ogdensburg Bridge and Port Authority amounts of money equal to the amounts expended from this appropriation and to deposit the same to the credit of the capital construction fund so the state shall be reimbursed for the full amount of any and all expenditures.

The superintendent of public works is hereby empowered to enter into a formal agreement or agreements with the Ogdensburg Bridge and Port Authority for the purposes authorized by this appropriation.

The moneys hereby appropriated, when made available pursuant to a certificate of approval of availability issued by the director of the budget, shall be paid from the capital construction fund on the audit and warrant of the state comptroller on vouchers approved by the superintendent of public works and by the chairman of the Ogdensburg Bridge and Port Authority or their duly designated officers. (re. \$5,472,353.76).

§ 7. This act shall take effect April first, nineteen hundred sixty.

STATE OF NEW YORK, } ss:
Department of State. }

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

CAROLINE K. SIMON,
Secretary of State