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Public Authorities

TITLE 13-L

ONEIDA COUNTY SPORTS FACILITY AUTHORITY ACT

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§ 2052-a. Short title. This title shall be known and may be cited as the "Oneida county sports facility authority act."

§ 2052-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section two thousand fifty-two-c of this title.
2. "Board" means the members of the authority constituting and acting as the governing body of the authority.
3. "Comptroller" means the comptroller of the state.
4. "Construct", "construction" or "constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of the sports facility, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedure and other actions preliminary or incidental thereto.
5. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real, personal and mixed and

improved and unimproved, the cost of the demolishing, removing or relocating of any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of the sports facility, machinery, apparatus and equipment, the cost of engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of other expenses necessary or incidental to the construction of any project and the financing of the construction thereof and the financing of the placing of any project in operation, including reimbursement to the county or any municipality, state agency, the state, the United States government or any other person for expenditures that would be costs of a project hereunder had they been made directly by the authority.

6. "County" means the county of Oneida.

7. "County executive" means the county executive of the county, being the chief executive officer of the county.

8. "County board of legislators" means the board of legislators of the county.

9. "Municipality" means any county, city, town, village, or city school district, union free school district, central school district or common school district, any other such instrumentality, including any agency or public corporation of the state, or any of the foregoing or any combination thereof.

10. "Murnane Field" means the stadium commonly known by that name, located in the city of Utica, as well as the surrounding lands, including all structures appurtenant thereto, located in the vicinity of Sunset Avenue and Burrstone Road in the city of Utica, which shall include all of the property deeded to the city of Utica by deed dated February third, nineteen hundred eight and thereafter conveyed to the Utica city school district by deed dated March fourteenth, nineteen hundred seventy-seven, except for any portions of the said property which have been appropriated by the state of New York or otherwise conveyed.

11. "Person" means any natural person, partnership, association, joint venture or corporation, exclusive of a public corporation.

12. "Project" means the sports facility, including the structures or parts thereof and appurtenances thereto, real property or any other property incidental to and included in such facility or part thereof, and any improvements, extensions and betterments.

13. "Real property" means lands, structures, franchises, rights and interests in land and air rights, and any and all things and rights included within said term and includes not only fees simple absolute, but also any and all lesser interests including, but not limited to, easements, rights-of-way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise and also claims for damage to real estate.

14. "Sports facility" means Murnane Field in the city of Utica.

15. "State" means the state of New York.

16. "State agency" means any state officer, public benefit corporation, department, board, commission, bureau, division or other agency or instrumentality of the state.

S 2052-c. Oneida county sports facility authority. 1. A public corporation, to be known as the "Oneida county sports facility authority" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. The board of the authority shall consist of a total of seven members, three of whom shall be appointed by the county executive, without confirmation of the county board of legislators, and four of whom shall be appointed by the

county board of legislators, without county executive right to veto. The first members appointed by the county executive shall be appointed for the following terms of office: one for a term ending on December thirty-first of the first year following the year in which this title shall have become law, one for a term ending on December thirty-first of the third year following the year in which this title shall have become law and one for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. The first members appointed by the county board of legislators shall have the following terms of office: one for a term ending on December thirty-first of the first year following the year in which this title shall have become law, one for a term ending on December thirty-first of the third year following the year in which this title shall have become law, and two for a term ending on December thirty-first of the fifth year following the year in which this title shall have become law. Subsequent appointments of members shall be made for a term of five years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be vested in and be exercised by the board at a meeting duly called and held where a quorum of four members are present. No action shall be taken except pursuant to the favorable vote of at least four voting members. The board may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

2. The officers of the authority shall consist of a chairman, who shall be a member of the authority, and a vice-chairman and a treasurer, who shall be members of the authority, and a secretary, who need not be a member of the authority. Such officers shall be appointed by the board and shall serve in such capacities at the pleasure of the board. In addition to the secretary, the board may appoint and at pleasure remove such additional officers and employees as it may determine necessary for the performance of the powers and duties of the authority and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and county civil service rules, and such employees shall be entitled to membership in the county pension and retirement system, and shall be entitled to the same rights and obligations thereunder as the employees of the county. The board may also from time to time contract for expert professional services, and may retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office, the amount and sufficiency of which shall be approved by the board and the premium therefor which shall be paid by the authority.

3. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, any municipality or any public benefit corporation shall forfeit his or her office or employment by reason of his or her acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with

such office, membership or employment and any such officer, member or employee may accept such appointment and serve as a member, officer, agent or employee of the authority without forfeiture of any other office or position of public employment by reason thereof.

4. (a) The county executive shall file on or before December thirty-first of the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the county executive setting forth: (1) the name of the authority; (2) the names of the members initially appointed and their terms of office; and (3) the effective date of this title. The authority shall be perpetual in duration, except that if such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) Except as provided in paragraph (a) of this subdivision, the authority and its corporate existence shall continue until terminated by law. Upon termination of the existence of the authority, all of the rights and each project of the authority then remaining shall pass to and vest in the county.

5. It is hereby determined and declared, that the authority and the carrying out of its powers and duties are in all respects for the benefit of the people of the county and the state for the improvement of their health, welfare and prosperity and that such purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

S 2052-d. Powers of the authority. The authority shall have the power:

1. To sue and be sued;
2. To have a seal and alter the same at pleasure;
3. To enter into contracts and to execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given it in this title;
4. To acquire, lease as lessee, hold and use by purchase, gift, grant, transfer, contract or lease any real or personal property or any interest therein, as the authority may deem necessary, convenient or desirable to carry out the purpose of this title. In connection with the acquisition of any such property, the authority may assume any obligations of the owner of such property and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe the restrictions contained in such instruments; and furthermore the owner of any property which the authority is authorized to acquire is hereby authorized to sell or otherwise transfer the same to the authority, whereupon the authority shall become charged with the performance of all public duties with respect to such property with which such owner was charged and such owner shall become discharged from the performance thereof;
5. To develop, construct, operate, maintain, manage or contract for the operation, maintenance or management of Murnane Field; to allow the use of Murnane Field by professional athletic teams for the conduct of professional and amateur athletic events and activities related thereto and, in its discretion, other organized public use and to allow the use of Murnane Field by the Utica city school district for the organized use of its students, subject only to general rules for the use of such sports facility and reasonable scheduling requirements; to contract for the operation and maintenance of the sports facility under its jurisdiction or for services to be performed in connection therewith; to rent parts thereof and to grant concessions, all on such terms and conditions as it may determine;
6. To lease the project of the authority to the county or any other municipality in the county, or any instrumentality thereof, upon such terms and conditions as shall be determined by the authority, the county, the municipality or such instrumentality, as the case may be;

7. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals of its plans or projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate, and to accept, in its discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

8. To make plans and studies necessary, convenient or desirable for the effectuation of the purposes and powers of the authority and to prepare recommendations in regard thereto;

9. To enter upon such lands or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done;

10. To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

11. To enter into cooperative agreements with other authorities, municipalities, district corporations, individuals or corporations, within or without the county, for any lawful purposes necessary or desirable to effect the purposes of this title upon such terms and conditions as shall be determined to be reasonable;

12. To make bylaws and rules for the management and regulation of its affairs and for the regulation of any project. A copy of such bylaws and rules, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county and shall be published thereafter once in each of two newspapers having a general circulation in the county. Violations of such rules shall be punishable by fine, not exceeding fifty dollars, or by imprisonment for not longer than thirty days, or both;

13. To fix rates and collect charges for the use of the project so as to provide revenues sufficient at all times to pay, as the same shall become due, the expense of operating and maintaining the project of the authority together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority;

14. With the consent of the county board of legislators, to use officers and employees of the county, including the county attorney's office, and to pay a proper portion of compensation or costs for the services of such officers or employees; and

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

S 2052-e. Appropriations for purposes of the authority; transfer of property to authority; acquisition of property by county or other municipality for authority; contracts with county or other municipality; use of Murnane Field by Utica city school district. 1. In addition to any powers granted to it by law, the county board of legislators, or the finance board, as such term is defined in the local finance law, of any other municipality in the county may, from time to time, appropriate by resolution sums of money for purposes of the authority to defray project costs or any other costs and expenses of the authority or to pay amounts payable or anticipated to be payable to the authority pursuant to any contract or lease authorized by this title. Such county board of legislators or finance board may determine if the moneys so appropriated shall be subject to repayment by the authority to the appropriate municipality and, in such event, the manner and time or times for such repayment. In the event there shall remain at the end of any fiscal year of the county or any such municipality an unexpended balance of any such appropriation, such unexpended balance shall remain on deposit in the fund or account and such appropriation shall not lapse.

2. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by the authority, the county or any other municipality from the state may be used for any corporate purpose of the authority.

3. The county, one or more municipalities and the authority shall have the power to contract, from time to time, between or among themselves, in relation to the use of the project of the authority, which contracts may include any or all of the following provisions: (a) requiring the use of such project by the county or such municipality for a specified period of time; (b) limiting the right, including a prohibition, of the county or any such municipality to construct a sports facility which will serve the same, or substantially the same, function as the project owned, leased or to be constructed or leased by the authority; (c) providing for specified minimum periodic payments whether or not a project is actually used, subject to such limitations, exceptions and provisions therein; and (d) requiring the county or any such municipality to pay to the authority such amounts as shall be necessary to assure the continued operation of the authority. All such payments shall be determined and paid in such manner and at such times as may be provided in such contracts.

4. Any gift, grant, sale, conveyance, loan, contract or lease authorized by this section may be made or entered into by the county, any other such municipality and/or the authority and no such gift, grant, sale, conveyance, loan, contract or lease shall be subject to referendum, permissive or otherwise.

5. Notwithstanding the provisions of any other law, general, special or local to the contrary, the authority shall allow the Utica city school district to use Murnane Field, and the Utica city school district shall be authorized to use Murnane Field, for the use of its students, subject only to general rules for the use of such sports facility and reasonable scheduling requirements, without charge to said school district, except for reimbursement of actual expenses occasioned by its use.

S 2052-f. Governmental capacity of the authority and municipalities. The authority, the county and the other municipalities, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

S 2052-g. Transfer of officers and employees. Any public officer or employee under civil service who is selected by the authority may, with the consent of the commission, board or chief executive officer of the municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee, after such transfer, shall be paid by the authority. Any such officers or employees so transferred to the authority pursuant to this section, who are members of or benefit under any existing pension or retirement fund or system, shall continue to have all rights, privileges, obligations and status with respect to such fund or system as are now prescribed by law, but, during the period of their employment by the authority, all contributions to such funds or systems to be paid by the employer on account of such officers or employees shall be paid by the authority. All such officers or employees so transferred to the authority who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointment.

S 2052-h. Moneys of the authority. All moneys of the authority from

whatever source derived shall be paid to the treasurer of the authority, or to the county commissioner of finance as agent of the authority if the board shall so determine, and shall be deposited forthwith in a bank or banks in the state designated by the board. The moneys in such accounts shall be paid out on check of the treasurer or county commissioner of finance, as the case may be, upon requisition by the board or of such other person or persons as the board may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county or of any other municipality within the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the authority not required for immediate use or disbursement may, at the discretion of the authority, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. With the approval of the comptroller, the authority shall prescribe a system of accounts.

S 2052-i. Exemption from taxes, assessments and certain fees. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and the state and is a public purpose and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any property owned by it or under its jurisdiction, control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

S 2052-j. Actions against authority. 1. No action or special proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any member, officer, agent or employee thereof, unless (a) a notice of claim shall have been made and served upon the authority within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or special proceeding shall be commenced within one year and ninety days after the happening of the event upon which the claim is based.

2. Wherever a notice of claim is served upon the authority, it shall have the right to demand an examination of the claimant relative to the occurrence and extent of the injuries or damages for which claim is made, in accordance with the provisions of section fifty-h of the general municipal law.

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

4. The rate of interest to be paid by the authority upon any judgment for which it is liable shall be the rate prescribed by section three-a of the general municipal law.

S 2052-k. Construction and purchase contracts. The authority shall let contracts for construction or purchase of supplies, materials, or equipment pursuant to sections one hundred one and one hundred three of the general municipal law. Nothing in this section shall be

construed to limit the powers of the authority to do any construction directly by the officers, agents and employees of the authority.

S 2052-l. Interest in contracts prohibited. It shall be a misdemeanor for any member of the board or any officer, agent, servant or employee of the authority to be in any way or manner interested, directly or indirectly, in the furnishing of work, materials, supplies or labor or in any contract therefor which the authority is empowered by this title to make.

S 2052-m. Authority shall be deemed state agency. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency as that term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

S 2052-n. Audit and annual report. In conformity with the provisions of section five of article ten of the constitution, the accounts of the authority shall be subject to the supervision of the comptroller. The authority shall annually submit to the governor and comptroller and to the state legislature a detailed report pursuant to the provisions of section two thousand eight hundred of title one of article nine of this chapter, and a copy of such report shall be filed with the county executive and with the county board of legislators. The authority shall comply with the provisions of sections two thousand eight hundred one, two thousand eight hundred two and two thousand eight hundred three of title one of article nine of this chapter.

S 2052-o. Books and records. The county comptroller and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing.

S 2052-p. Limited liability. Neither the members of the board, nor any municipality, officer or employee acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from the construction, maintenance or operation of any of the projects of the authority or from carrying out any of the powers expressly given in this title; provided, however, that this section shall not be held to apply to any independent contractor.

S 2052-q. Environmental applications, proceedings, approvals and permits. 1. Any application in relation to the purposes of or contemplated by this title heretofore filed, or any proceeding heretofore commenced, or any determination or decision heretofore made by the county or any municipality and sent to or filed with the state department of environmental conservation or any other state agency or instrumentality or with the United States environmental protection agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto, to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the county or any such municipality to the authority, unless such assignment and transfer is prohibited by federal law.

2. All such applications, proceedings, licenses, approvals, permits

and decisions shall further inure to and for the benefit of and be binding upon any person leasing, acquiring, constructing, maintaining, using or occupying any project financed in whole or in part by the authority.

S 2052-r. Separability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or 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.

S 2052-s. Effect of inconsistent provisions. In so far as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of the county, or other municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of environmental conservation or the department of health.

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