

CHAPTER 78

Approved and effective April 21, 1981

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

AN ACT authorizing the towns of Rushford and Caneadea in Allegany County to establish the Rushford Lake Recreation District

The People of the State of New York, represented In Senate and Assembly. do enact as follows;

Section 1. The legislature hereby finds and declares that the creation of the Rushford Lake Recreation District to maintain the Caneadea dam and preserve Rushford Lake in the towns of Rushford and Caneadea, Allegany county is a public purpose and will ensure the preservation of real property values In the proposed district, the enhancement of the scenic beauty of the towns, the conservation of fish and wildlife of the lake and the preservation of recreational facilities for the use and enjoyment of the public.

§ 2. The town boards of the towns of Rushford and Caneadea In Allegany county are hereby authorized to establish a recreation district, In the Manner hereinafter set forth, to provide for a permanent and responsible entity to Maintain and operate a dam or dams; to maintain the water level of Rushford Lake; to support recreational uses of the lake; when consistent with the foregoing purposes, to provide additional waters to power hydroelectric plants downstream from the dam; If possible and economically feasible and desirable and subject to the provisions of other laws, to generate hydroelectric power; to cooperate with private and public entities to promote the foregoing purposes; and, subject to the provisions of this act, to take such further actions as are consistent with the foregoing purposes. Such district, if created pursuant to the provisions of this act, shall be called the Rushford Lake Recreation District and may encompass the Caneadea dam and those lands lying generally between said Rushford Lake and Caneadea dam and the center line of the perimeter highways around Rushford Lake and Caneadea dam as are more specifically described in section three of this act.

§ 3. The location of said district shall be in the towns of Rushford and Caneadea, county of Allegany, and may include that property bounded and described as follows:

BEGINNING In the center line of Mill Road In the Township of Caneadea where it is intersected by the west line of Lot No. 8, Section 12, Township 5, Range 1 of the Holland Company's Tract; running thence southwesterly along the center line of Mill Road to Its Intersection with the center line of Dam Road; running thence northerly along the center line of Dam Road to its Intersection with the center line of Lake Road; running thence northwesterly along the center line of Lake Road to Its Intersection with the center line of New York State

Highway No. 243, which point of intersection is approximately on the town line between the Town of Caneadea on the east and the Town of Rushford on the west; running thence westerly and southwesterly along the center line of New York State Route No. 243 to its intersection with the center line of County Road No. 49, as said center line is extended in a northwesterly direction; continuing thence southwesterly along the center of New York State Route No. 243, 720 feet, more or less, to the northwesterly corner of lands south of the center line of the new alignment of New York State Route 243, reserved by Floyd Ryan in a Deed to Eleanor W. Clark, recorded in the Allegany County Clerk's Office on November 1, 1967 in Liber 572 of Deeds at page 981; running thence southeasterly along the westerly line of said reserved parcel to the southwesterly corner thereof; running thence northeasterly along the southerly line of said reserved parcel to the center line of County Road No. 49; running thence southeasterly, southerly, easterly, southeasterly and southerly along the center line of said County Road No. 49 to its intersection with the center line of Barber Hill Road, as said center line is extended in a northeasterly direction; running thence southwesterly along the center line of Barber Hill Road to the northeasterly line of lands conveyed by George J. Clark to Ruth F. Hutton by Deed recorded in the Allegany County Clerk's Office in Liber 693 of Deeds at page 47, or said northeasterly line as extended to the center line of Barber Hill Road; running thence southeasterly along the northeasterly line of lands in said deed (or as said northeasterly line is extended) to its intersection with the 1450 elevation mean line, which lies northwesterly of Rush Creek; running thence southwesterly along the said 1450 elevation mean line to the north line of Lot No. 1, Range 2, Township 5; running thence southerly at right angles to the north line of Lot No. 1 to the north line of the 1450 elevation mean line which lies southeasterly of Rush Creek; running thence easterly and northeasterly along said 1450 elevation mean line to the center line of Rush Creek Road; running thence northerly along the center line of Rush Creek Road to the center line of County Road No. 49; running thence easterly, northeasterly and easterly along the center line of County Road No. 49 to its intersection with the east line of Lot No. 9, Section 12, Township 5, Range 1 of the Holland Company's Tract, being also the west line of Lot No. 7, Section 12 in Township 5, Range 1; running thence northerly on the line between said Lots Nos. 9 and 7 and thence continuing on the line between Lots Nos. 10 and 8, Section 12 in Township 5, Range 1 to the place of beginning; together with and including any other lands that are owned by Rochester Gas and Electric Corporation, Caneadea Power Corporation, their subsidiaries, successors or assigns prior to the effective date of this act and that are contiguous to and adjacent to the above-described property.

§ 4. (a) The town boards of the town of Rushford and the town of Caneadea are hereby authorized to adopt resolutions providing that there shall be a Joint public hearing to determine whether the Rushford Lake Recreation District shall be created.

Such resolutions -shall state the substance of any agreements heretofore made,

or proposed to be made, by and between the towns of Rushford and Caneadea, the Rushford Central School District, Rochester Gas and Electric Corporation or Caneadea Power Corporation in connection with the acquisition of properties heretofore owned by the Rochester Gas and Electric Corporation or the Caneadea Power Corporation, their subsidiaries, successors or assigns. Including Rushford Lake and the Caneadea dam, by the proposed district and shall further state the maximum amount that is anticipated to be expended annually by such district for the provision of service and Improvements. Such resolutions shall also specify the time and place where the town boards will meet to consider the establishment of said district and to hear all persons Interested in the same. Such resolutions shall also provide that a map of the proposed district may be examined In advance of such public hearing at each town clerk's office and, if the town boards so determine, at an additional place or places designated by such town boards.

(b) Each town board shall cause a notice of adoption of such resolution to be published at least once in any newspaper having general circulation in the proposed district , the first publication thereof to be not less than ten days nor more than twenty days before the day set therein for the hearing, and shall cause a copy thereof to be posted on the sign board of each town maintained pursuant to subdivision six of section thirty of the town law, not less than ten days nor more than twenty days before the day designated for the hearing as aforesaid.

Cc) If prior to the effective date of this act, the town boards of the towns of Rushford and Caneadea have conducted a public hearing upon notice that complies with the provisions of this section, the actions of such town boards with respect to any such public hearing and the public hearing are hereby ratified and shall be deemed to have been performed pursuant to the provisions of this act.

§ 5. (a) After a hearing held upon notice as hereinbefore provided and upon the evidence given thereat, the town boards shall determine by resolution:

1. whether the notice of hearing was published and posted as required above and is otherwise sufficient;
2. whether all the property and property owners within the proposed district are benefited thereby;
3. whether all the property and property owners benefited are included within the limits of the proposed district;
4. whether the establishment of such district is in the public interest.

(b) If either town board shall determine that the notice of hearing was not published and posted as required in section four of this act, or that it is otherwise insufficient, or if it is determined that it is not In the public interest to accomplish the establishment of the district as proposed, then such town board shall adopt a resolution stating the reasons for the determination not to establish the district and enter the same in the minutes of its proceedings.

(c) If either town board shall determine that the notice of public hearing was published and posted as required above and is otherwise sufficient, and that it is in the public interest to establish such district, either In whole or in part, but shall find that any part or portion of the property or property owners within the

proposed district are not benefited thereby or that certain property or property owners benefited thereby have not been Included therein, the town board shall specify the necessary changes of the boundaries of the proposed district to be made in order that all of the property and property owners and only such property and property owners as are benefited shall be Included within such proposed district, and the town boards of the towns of Rushford and Caneadea shall call a further hearing at a definite place and time not less than fifteen days nor more than twenty-five days after such determination. Notice of such further hearing shall be posted and published in the manner provided in section four of this act except that such notice shall also specify the manner in which It is proposed to alter the boundaries of the proposed district. Such further hearing shall be conducted in the same manner as the original hearing.

(d) If and when both town boards shall determine In the affirmative all of the questions set forth In subdivision (a) of this section, each board may adopt a resolution approving the establishment of the district as the boundaries shall be finally determined and the provision of the service and improvements therein, which resolutions shall be subject to a permissive referendum In the manner provided in subdivision (f) of this section unless such referendum Is not required by this section.

(e) In the event that a petition is presented to the town boards of Rushford and Caneadea for the establishment of the proposed district and such petition is otherwise sufficient under this subdivision, the town boards of the town of Rushford and the town of Caneadea may, after having conducted a joint public hearing pursuant to section four of this act, adopt a resolution establishing the proposed district. Such resolution shall not be subject to a permissive referendum and shall be adopted only after the town boards make the findings required in subdivision (a) of this section and further find that said petition complies with the requirements of this subdivision. Such petition shall be sufficient if it is signed by the owners of taxable real property in the proposed district who own. In the aggregate, at least one-half of the assessed valuation of all the taxable real property of the proposed district within both the town of Rushford and town of Caneadea as shown upon the latest completed assessment rolls of such towns; provided however, that such petition shall not be signed by, or on behalf of, any corporation which owns real property situated In the proposed district If such property. In the aggregate, constitutes more than twenty-five percent of the total assessed valuation of all taxable real property In the proposed district; provided further that, in the event a corporation .is precluded from signing the petition as aforesaid, the assessed valuation of all property owned by such corporation shall, for the purpose of determining whether such petition Is signed by persons owning at least one-half of the assessed valuation of all the taxable real property of the district as hereinabove provided, be excluded from the total assessed valuation of all real property of the proposed district. Such petition shall describe the boundaries of the proposed district in a manner sufficient to identify the lands Included therein as in a deed of conveyance and shall be signed by the petitioners and acknowledged In the same manner as a deed to be recorded. If a petition ' that complies with the

requirements of this subdivision is presented to the town boards prior to the effective date of this act, such petition shall be deemed to have been presented in compliance with the provisions of this subdivision and a permissive referendum shall not be required.

(f) In the event that a petition is not presented to the town boards of the towns of Rushford and Caneadea pursuant to subdivision (e) of this section or a petition is presented but is found to be defective, then the resolution of each town board adopted pursuant to subdivision (a) of this section shall be subject to permissive referendum in a manner provided by article seven of the town law¹ except as hereinafter set forth. A petition requesting a referendum shall be sufficient if signed and acknowledged by the owners of taxable real property situated in the proposed district, as shown upon the latest completed assessment roll of said towns, in number equal to at least five percent of the total number of such owners, or by one hundred of such owners, whichever is the lesser. A corporate owner of such taxable real property shall be considered one owner for the purposes of a petition requesting a referendum' and shall be entitled to one vote to be cast by an officer or agent of the corporation or other duly authorized person designated by appropriate resolution of such corporation. The town clerks of each town shall cause to be prepared and have available for distribution proper forms for the petition and shall distribute a supply to any person requesting the same. The proposition submitted must be approved by an affirmative vote of a majority of the qualified electors and any corporations authorized to vote pursuant to this subdivision voting on such proposition. A referendum shall only be required under this subdivision, if the petition requesting the same is filed with the town clerk of the town of Rushford, and a copy thereof is filed with the town clerk of the town of Caneadea within thirty days after the adoption of the resolutions by the town boards pursuant to this section. If such resolutions are adopted on different dates, said thirty day period shall commence on the later date. Such election, if required, shall be conducted at the Rushford town hall and shall be conducted as provided in article seven of the town law.

(g) After the adoption of a resolution by each town board approving the establishment of Rushford Lake Recreation District, and if a referendum is required by subdivision (f) of this section, the approval of such proposition by the voters, the town boards of the town of Rushford and the town of Caneadea shall be authorized to jointly adopt an order creating the Rushford Lake Recreation District, which order shall, within ten days following the adoption of the order, be filed with the town clerks of the towns of Rushford and Caneadea, the Allegany county clerk and the office of the state department of audit and control in Albany, New York. Any interested person aggrieved by any final determination or order made pursuant to this act, may review the same as provided in article seventy-eight of the civil practice law and rules.² The regularity of the proceedings for the establishment of the district shall be final and conclusive unless application has been made for review within thirty days from the time of filing thereof.

¹ Town Law § 90 et seq. ² CPLR § 7801 et seq.

§ 6. The district shall, subject to the provisions of this act, in addition to any other powers vested in town improvement districts or improvement district

commissioners for the performance of their functions, powers or duties, have all of the functions, powers and provisions set forth in section one hundred nineteen-o of the general municipal law.

§ 7. (a) The Rushford Lake Recreation District, and the affairs thereof, shall be administered by five commissioners In accordance with the provisions of this act and such commissioners shall be known as the board of commissioners. One such commissioner shall be appointed by the town board of the town of Rushford and one such commissioner shall be appointed by the town board of the town of Caneadea and both shall serve at the pleasure of the respective boards and shall be residents of the respective towns. The remaining three commissioners shall be elected; provided, however, at least one of the elected commissioners shall be a resident of the district. At the first annual election conducted after the establishment of the district, the person receiving the greatest number of votes for the office of commissioner shall be elected for a term of three years, the person receiving the second highest number of votes shall be elected for a term of two years and the person receiving the third highest number of votes shall be elected for a term of one year. In the event that none of the resident candidates for commissioner shall be among the top three vote receivers, the resident candidate receiving the highest number of votes shall be elected to the one year term and the candidate receiving the third largest number of votes shall not be elected commissioner. At each annual election thereafter, the candidate receiving the greater number of votes shall be elected for a term of three years. An elected commissioner must be a qualified elector of the district.

(b) There shall at all times be at least one resident holding elective office as commissioner. In the event that there is only one resident holding elective office as commissioner and such office becomes vacant because of the expiration of the commissioner's term or otherwise, then only resident candidates shall be eligible for such office.

(c) The board of commissioners shall appoint a district treasurer and a district secretary. Each shall serve for a term of one year, unless the board by majority vote shall terminate the term of office of one or both of them, in which case the board by majority vote may appoint a replacement of the officer or officers so terminated to fill the remainder of the term of the officer or officers so terminated. The treasurer shall not be a commissioner, and shall not vote on the board. The secretary may be a commissioner, in which case the secretary shall vote on the board) otherwise, the secretary shall not vote. The district treasurer or district secretary need not be a resident or elector of the district.

(d) Until the commissioners elected at the first annual election take office, the affairs of the district shall be managed by the two commissioners appointed by the town boards of the town of Rushford and the town of Caneadea pursuant to subdivision (a) of this section and three temporary commissioners who shall be appointed within twenty-one days of the establishment of the district as herein provided. The town boards shall jointly appoint three temporary commissioners to be chosen from among those qualified electors who submit petitions, subscribed by qualified electors of the district to the clerk of the town of Rushford. If more

than three petitions are submitted to the town board of Rushford, the town board shall appoint as temporary commissioners three persons out of the five persons who submit petitions having the greatest number of signatures thereon. Such board of commissioners shall appoint an acting district treasurer and an acting district secretary to serve at the pleasure of such board until successors are chosen by those commissioners holding office after the first annual election. The temporary commissioners appointed pursuant to this subdivision are authorized to manage all district affairs until those commissioners chosen at the first annual election are duly elected and qualified and shall have all authority hereafter conferred upon the board by this act including the authority to accept title of real property including property presently owned by Rochester Gas and Electric Corporation or by Caneadea Power Corporation, their subsidiaries, successors or assigns.

(e) The commissioners shall receive no compensation for their services, but a commissioner acting as secretary of the district may be compensated. The district secretary shall receive such compensation as the board of commissioners may determine, but if the secretary be a member of the board of commissioners, such compensation shall be fixed by the other members of the board. The district treasurer shall receive such compensation as the board of commissioners may determine. The commissioners, the district treasurer and the district secretary, shall, before entering upon the duties of/office, each take and file their oath of office in accordance with section ten of the public officer's law. The treasurer of the district shall before entering upon the duties of office, execute and file with the district secretary an official undertaking in the form required by section eleven of the public officers law; provided, however, the undertaking shall be in such sum and with such sureties as the board of commissioners shall direct and approve and its approval as to form and sufficiency shall be indicated upon such undertaking. The district treasurer or any commissioner of the district, whenever so appointed, may also act as district secretary.

(f) All actions of the board of commissioners, except as otherwise provided by this act or law, shall be by a majority vote of the five commissioners. A quorum to conduct any business shall be three, and an affirmative vote of at least three commissioners shall be necessary to authorize any and all action to be undertaken by the board.

§ 8. (a) The annual election shall be held on the last Saturday in June of each year except as provided in subdivision (d) of this section. Notice of the time and place of the election shall be published in at least one newspaper having general circulation in the district and shall be published once each week for at least three weeks with the first publication to be not more than forty days or less than twenty-five days prior to the election. The notice of annual election shall specify the time when and the place where such election shall be held and the hours during which the polls will be open for receipt of ballots. The notice shall also furnish notice of any proposition to be voted upon. The board of commissioners, at least ten days before the annual election, shall appoint three qualified electors, who are not commissioners or candidates, as the election

inspectors and ballot clerks. There shall be one voting place which shall be determined by the board and the polls shall be kept open from noon to eight o'clock in the evening. The board shall cause to be prepared the ballots for all elections and may authorize the use of voting machines, approved by the secretary of state, at any annual or special election in accordance with the election law. After the polls shall have been closed in any election, the election inspectors and ballot clerks shall immediately canvass the ballots cast and shall publicly announce the votes. Within twenty-four hours the election officials shall execute and file a certificate of the results of the canvass with the board of commissioners and such certificate shall be filed with the official minutes of the board. Within three days, such certificate shall be filed by the election officials with the town clerk of the town of Rushford and a copy thereof shall be filed with the town clerk of the town of Caneadea.

(b) Nominations for office must be filed with the district secretary at least fifty days before the annual elections and must be subscribed to by at least twenty-five qualified voters. At least twenty-five qualified voters must subscribe any proposition proposed to be placed upon the ballot pursuant to section eleven of this act. Such propositions must be filed with the district secretary at least fifty days prior to the election.

(c) A special election on a proposition may be called upon a two-thirds vote of the entire board of commissioners and upon thirty days' notice to be published in accordance with the requirements for the annual election.

(d) The first annual election held after the creation of the Rushford Lake Recreation District shall be held on the last Saturday in June, nineteen hundred eighty-one; provided, however, if such district is established less than thirty days before such date, the first annual election shall be conducted on the first Saturday that occurs more than thirty days after the district has been established. Notice of the first annual election shall be given in accordance with the provisions of subdivision (a) of this section.

(e) The acting district secretary shall notify each commissioner elected to office of his election and that an organizational meeting will be held on the day specified in such notice, which notice shall not be earlier than ten days or later than thirty days after the certificate of results of the canvass has been filed with the town clerk of the town of Rushford. At such organizational meeting, the acting district treasurer shall preside until such time as the chairperson of the board of commissioners shall be chosen, but such acting district treasurer shall not be entitled to vote at such meeting. The commissioners shall choose one of their numbers to serve as chairperson for a term of one year.

§ 9. For purposes of this act, the term "qualified electors" shall mean only those persons who: (1) reside in the district for a minimum of thirty days next preceding the election and are duly registered to vote from that residence in accordance with the provisions of article five of the election law or (2) own real property in the district. Only natural persons shall be entitled to vote at the annual or special elections of the district and no other person shall be entitled to vote at an annual or special election of the Rushford Lake Recreation District.

¹ Election Law § 5-100 et seq.

§ 10. The towns of Caneadea and Rushford are hereby authorized to contract Indebtedness on behalf of the Rushford Lake Recreation District in accordance with the provisions of the local finance law; provided, however, that Indebtedness for each capital improvement in an amount to exceed the sum of ten thousand dollars shall not be contracted on behalf of such district unless and until such capital expenditure is approved by a majority vote of the qualified electors of such district voting on the proposition at an annual or special election of the district; provided further, that the towns of Caneadea and Rushford shall not contract indebtedness for capital expenditures on behalf of the district in an amount to exceed ten thousand dollars unless and until the permission of the state comptroller shall have been obtained. If the comptroller's consent is requested pursuant to this section, he shall determine whether the public interest will be served by the proposed expenditure and also whether the cost thereof will be an undue burden upon the property within the district.

§ 11. The board of commissioners of the Rushford Lake Recreation District shall, in addition to any other powers conferred by this act, have the power:

- (a) To acquire, manage, operate, maintain, repair, replace and sell any and all equipment and other personal property reasonably necessary to administer, operate and maintain the property owned by the Rushford Lake Recreation District;
- (b) To acquire, manage, operate, maintain, repair and replace aquatic weed-cutting equipment;
- (c) Subject to the provisions of this act, to acquire by purchase, lease, gift, devise or by condemnation pursuant to the eminent domain procedure law, real property required for any district purpose;
- (d) Subject to provisions of this act, to lease or convey any real property owned by the district or to grant an easement or license with respect to such property, on such terms and conditions as the board may determine;
- (e) To maintain premises and areas designated as public areas and to provide supervision, control and maintenance thereof, including but not limited to, boat launches, picnic areas, docks, dams, spillways, water level control devices, walkways, public areas, and to provide security devices and personnel for the protection and control of all of the same;
- (f) To contract to sell water from Rushford Lake;
- (g) To accept gifts of money and personalty;
- (h) To hire whatever employees, advisors and consultants are deemed required from time to time to accomplish the district purposes;
- (i) To pay the town of Caneadea and the town of Rushford for expenses incurred by said towns for the drafting of legislation and agreements for the district and for other expenses relating to the creation of the district after submission of proper vouchers. The board of commissioners is directed to make payment to said towns for all such vouchered expenses which are submitted to the district;
- (J) To manage and control the property of the district and to insure the same against loss or damage from any risk whatsoever;
- (k) To place upon the ballot at any annual or special election any proposition this

must be approved by the electors pursuant to section twelve of this act;

(l) To audit all claims against the district and to order the payment thereof by the district treasurer in the amounts allowed. Except as otherwise provided by this subdivision, no such claims shall be audited or ordered paid by the board of commissioners unless an itemized voucher therefore, verified, or certified under the penalties of perjury, by or on behalf of the claimant, in such form as the board of commissioners shall prescribe, shall have been presented to the board of commissioners for audit and allowance. The provisions of this subdivision shall not be applicable to claims for the payment of fixed salaries, compensation for services of officers or employees regularly engaged by the district at agreed wages by the hour, day, week, month or year, the principal of or Interest on obligations Issued on behalf of the district, and fixed amounts becoming due on lawful contracts. The board of commissioners may, further, by resolution authorize the payment In advance of audit of claims for light, telephone, postage, freight and express charges. All such claims shall be presented at the next regular meeting for audit, and the claimant and the officer incurring or approving the same shall be Jointly and severally liable for any amount disallowed by the board of commissioners;

(m) To establish by resolution a petty cash fund for the district treasurer for the payment, in advance of audit, of properly itemized and verified or certified bills for materials, supplies or services furnished to the district for the conduct of its affairs and upon terms calling for payment to the vendor upon the delivery of any such materials or supplies or the rendering of any. such services. The amount of such petty cash fund shall not exceed one thousand dollars;

(n) Subject to provisions of this subdivision and section seven of this act, to fill any vacancy which shall occur or exist in any district office. Whenever a vacancy shall occur in an appointive office, the board of commissioners may appoint a qualified person to fill the vacancy who shall hold office for the remainder of the unexpired term; provided, however, that any vacancy which occurs In the office of a commissioner appointed by the town board shall only be filled by the respective town board. Whenever a vacancy shall occur in an elective office, the board of commissioners shall appoint a qualified person to fill such vacancy until the next annual election. At such election, a successor shall be chosen to fill the vacancy for the remainder of the unexpired term;

(o) To impose a reasonable charge for the use of district property under a lease with, or license from, the district; and

(p) To purchase and maintain Insurance to indemnify commissioners of the district; provided, however, any such commissioner shall be Indemnified only if such commissioner at the time the claim or cause of action arose or damages were sustained, was acting in the discharge of or within the scope of his authorized duties and that such claim or cause of action or damages sustained did not result from the intentional wrongdoing or gross negligence of such person.

§ 12. The board of commissioners shall, when authorized by a majority vote of the electors voting upon a proposition, have the power:

- (a) To acquire real property by purchase at prices or amounts authorized by duly adopted propositions; provided however, that this paragraph shall not apply to that property owned by Rochester Gas and Electric Corporation, Caneadea Power Corporation, their subsidiaries, successor or assigns prior to the effective date of this act and included in the property described in section three of this act;
- (b) To sell, transfer or permanently dispose of any real property, on such terms and conditions and at such prices as shall by proposition be authorized; and
- (c) To take any other further or additional action this, under the provisions of this act, must first be authorized by the adoption of a proposition for such.

§ 13. (a) The board of commissioners shall, at least thirty days before the annual election, prepare and file with the secretary of the district a preliminary annual budget setting forth the amount of money estimated to be on hand for the fiscal year beginning with the succeeding first day of January and an estimate of the proposed expenditures for and revenues of such district for such fiscal year. Such preliminary budget shall specify by Items, all proposed expenditures for general purposes, including expert and professional services, and for debt service, in accordance with the rules, regulations, procedures and forms promulgated by the state comptroller, and shall specify the amount of taxes to be raised by special ad valorem levies.

(b) The board of commissioners shall hold a public hearing on the preliminary budget which shall be held at least ten days before the annual election. Notice of such public hearing shall be published at least once in any newspaper having general circulation in the district and may be published in such other newspapers and for such other additional times as the board by resolution shall direct. The notice of hearing shall state the time when and the place where the public hearing will be held, the purpose thereof and that a copy of the preliminary budget is available at the offices of the town clerks of the town of Rushford and the town of Caneadea where it may be inspected by any interested person during office hours. At such hearing, any person may be heard in favor of or against the preliminary budget as compiled, or for or against any Item or Items therein contained. After the public hearing, the board of commissioners may further change, alter, and revise the preliminary budget; provided, however, that such amended budget shall be in accordance with the rules, regulations, procedures and forms promulgated by the state comptroller. The preliminary budget as submitted or amended shall be finally adopted by resolution of the board of commissioners not later than the date of the annual election and shall be known as the annual budget for the district for the fiscal year beginning on the first day of January next succeeding and it shall be entered in the minutes of the board.

(c) After the final adoption of the annual budget, the board of commissioners shall transmit copies thereof to the supervisors of the town of Rushford and the town of Caneadea on or before the first day of November. The supervisor of the town of Rushford shall thereafter present such annual budget to the county legislative body of the county of Allegany at the same time the annual town budget is presented pursuant to section one hundred fifteen of the town law. The legislative body of said county shall levy and cause to be raised the amounts

specified in the annual budget of the district to be levied by special ad valorem levies upon the real property of the district liable therefore at the time and in the manner provided by law for the levy of town and county taxes; provided however, that any special ad valorem levies imposed pursuant to this section shall be subject to the provisions of subdivision five of section three hundred five of the agriculture and markets law. The county legislative body shall proportion the total amount of ad valorem levies to be raised in such district in the manner set forth in section eight hundred six of the real property tax law. Special ad valorem levies assessed upon that real property in the district shall be collected from the real property in the district in the same manner and at the same time as town charges. The town supervisors of the respective towns shall pay over to the treasurer of the district all special ad valorem levies levied for district purposes and all proceeds of obligations issued for district improvements. The proceeds of all obligations shall be deposited and used in the manner prescribed by section one hundred sixty-five of the local finance law.

(d) Notwithstanding the provisions of this section to the contrary, if the Rushford Lake Recreation District is established after the date set forth in this Motion for final adoption of the budget for the fiscal year in which the district is established, the board of commissioners shall have the power to expend moneys for district purposes during such fiscal year.

§ 14. The district treasurer shall be the fiscal officer of the district and shall receive and have custody of the funds of the district and shall disburse the same for the purposes herein authorized on the order of the board of commissioners, except that no order of the board of commissioners shall be required for the payment of fixed salaries, compensation for services of officers or employees regularly engaged by the district or agreed wages by the hour, day, week, month or year, the principal of or interest on obligations issued on behalf of the district and fixed amounts becoming due on lawful contracts. All such disbursements shall be made by check payable to the order of the party entitled thereto. The board of commissioners shall designate by resolution the banks or trust companies of this state in which the district treasurer shall, within ten days, deposit all monies coming into the hands of the treasurer by virtue of the office. Such designation and deposit of the monies shall release the district treasurer and other district officers and their sureties from any liability for loss of such monies by reason of the default or insolvency of any such depository. At a meeting of the board of commissioners of the district to be held not less than thirty days prior to the annual district election, the district treasurer shall account to the board of commissioners for all monies received and disbursed by the treasurer during the preceding fiscal year and shall produce all books, records, receipts, orders, vouchers and cancelled checks respecting the same. At such meeting the district treasurer shall file with the board of commissioners a statement in writing showing all receipts and disbursements for the preceding fiscal year. Such statement shall be in detail and shall be entered in the minutes of the meeting by the district secretary. The board of commissioners may require the district treasurer to submit to the board of commissioners at any time for

examination all books, records, receipts, orders, vouchers and cancelled checks. The district treasurer is authorized to accept service of process on behalf of the district.

§ 15. The district secretary shall have the custody of all the records, books and papers of the district. The district secretary shall attend all meetings of the board of commissioners, act as clerk thereof, and keep a complete and accurate record of the proceedings of each meeting and of all propositions, rules and regulations adopted. The district secretary shall have such additional powers and perform such additional duties as the board of commissioners may determine, not inconsistent with law. The district secretary is authorized to accept service of process on behalf of the district.

§ 16. (a) The Rushford Lake Recreation District, upon acquiring title to the properties heretofore owned by Rochester Gas and Electric Corporation, Caneadea Power Corporation, their subsidiaries, successors or assigns, including Rushford Lake and the Caneadea dam and included in the property described in section three of this act, shall make payment in lieu of taxes to the town of Caneadea and the Rushford Central School District in the manner and for the period hereinafter set forth. Such payments shall commence in the year in which said lands are granted an exemption pursuant to the real property tax law and shall be paid no later than March first in any year.

(b) Payments in lieu of taxes shall be made by the district to the town of Caneadea for a period of twenty years. The first payment in lieu of taxes shall be in the amount of thirty-two thousand seven hundred dollars. Payments in each succeeding year shall be reduced by sixteen hundred thirty-five dollars during such additional period of nineteen years.

(c) Payments in lieu of taxes shall be made by the district to Rushford Central School District for a period of ten years. The first payment in lieu of taxes shall be in the amount of forty-eight thousand dollars. Payments in each succeeding year shall be reduced by forty-eight hundred dollars during such additional period of nine years.

§ 17. (a) Sections fifty-e, fifty-h and fifty-1 of the general municipal law shall be applicable to all actions or special proceedings founded upon tort that are commenced against the Rushford Lake Recreation District; provided however, that the notice of claims and other legal process must be served upon either the district secretary or the district treasurer and no other person shall be competent to accept such service.

(b) Notwithstanding the provisions of subdivision thirty-three of section eleven of the local finance law to the contrary, the towns of Rushford and Caneadea may contract indebtedness on behalf of the Rushford Lake Recreation District for the payment of any judgments, compromised claims or settled claims for a period not to exceed thirty years, where such judgments, compromised claims or settled claims fall due in a single fiscal year and amount to more than five per centum of the average full valuation of the district.

§ 18. If any provision of any section of this act or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent Jurisdiction, such order or Judgment shall be confined in Its operation to the controversy in which it was rendered, and shall not affect or Invalidate the remainder of any provision of any section of this act or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of this act are hereby declared to be severable.

§ 19. This act shall take effect immediately.