
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 188 Session of
1979

Report of the Committee of Conference

To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 188, entitled:
"An act amending the act of May 2, 1945 (P.L.382, No.164), entitled 'An act providing for the incorporation as bodies corporate and politic of "Authorities" for municipalities, counties and townships; * * * authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates,' authorizing Authorities to provide business improvements and business administrative services."

respectfully submit the following bill as our report:

EDWARD P. ZEMPRELLI

J. BARRY STOUT

J. DOYLE CORMAN

(Committee on the part of the Senate.)

A. CARVILLE FOSTER, JR.

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LESTER K. FRYER

(Committee on the part of the House of Representatives.)

AN ACT

1 Amending the act of May 2, 1945 (P.L.382, No.164), entitled "An
2 act providing for the incorporation as bodies corporate and
3 politic of 'Authorities' for municipalities, counties and
4 townships; prescribing the rights, powers and duties of such
5 Authorities heretofore or hereafter incorporated; authorizing
6 such Authorities to acquire, construct, improve, maintain and
7 operate projects, and to borrow money and issue bonds
8 therefor; providing for the payment of such bonds, and
9 prescribing the rights of the holders thereof; conferring the
10 right of eminent domain on such Authorities; authorizing such
11 Authorities to enter into contracts with and to accept grants
12 from the Federal Government or any agency thereof; and
13 conferring exclusive jurisdiction on certain courts over
14 rates," authorizing Authorities to provide business
15 improvements and business administrative services.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 2, act of May 2, 1945 (P.L.382, No.164),
19 known as the "Municipality Authorities Act of 1945," is amended
20 by adding definitions to read:

21 Section 2. Definitions.--The following terms whenever used
22 or referred to in this act shall have the following meanings,
23 except in those instances where the context clearly indicates
24 otherwise:

25 * * *

26 (k) The term "administrative service" in the case of
27 Authorities created for the purpose of making business
28 improvements or providing administrative services shall mean
29 those services which improve the ability of the commercial
30 establishments of the district to serve the consumer such as
31 free or reduced fee parking for customers, transportation
32 repayments, public relations programs, group advertising, and
33 district maintenance and security services.

34 (l) The term "business improvement" in the case of
35 Authorities created for the purpose of making business

1 improvements or providing administrative services shall mean
2 those improvements needed in the district designated by an
3 Authority to the district in general or to specific areas or
4 individual properties including but not limited to sidewalks,
5 retaining walls, street paving, street lighting, parking lots,
6 parking garages, trees and shrubbery, pedestrian walks, sewers,
7 water lines, rest areas and acquisition and remodeling or
8 demolition of blighted buildings or structures. Improvements
9 shall not be made to property not acquired by purchase or lease,
10 other than those improvements made within a right-of-way.

11 Section 2. Subsections A and B of section 3 of the act,
12 subsection A amended January 21, 1952 (1951 P.L.2188, No.626),
13 are amended and a clause is added to subsection B to read:

14 Section 3. Method of Incorporation.--A. Whenever the
15 municipal authorities of any municipality singly or of two or
16 more municipalities jointly shall desire to organize an
17 Authority under this act, they shall adopt a resolution or
18 ordinance signifying their intention to do so.

19 Thereafter the municipal authorities of such municipality or
20 municipalities shall cause a notice of such resolution or
21 ordinance to be published at least one time in the legal
22 periodical of the county or counties in which such Authority is
23 to be organized, and at least one time in a newspaper published
24 and of general circulation in such county or counties. Said
25 notice shall contain a brief statement of the substance of said
26 resolution or ordinance, including the substance of such
27 articles making reference to this act, and shall specifically
28 provide that the municipality or municipalities have retained
29 the right which exists under this act to approve any plan of the
30 Authority, in the case of Authorities created for the purpose of

1 making business improvements or providing administrative
2 services if appropriate, and shall state that on a day certain,
3 not less than three days after publication of said notice,
4 articles of incorporation of the proposed Authority will be
5 filed with the Secretary of the Commonwealth of Pennsylvania. No
6 such municipality shall be required (any law to the contrary
7 notwithstanding) to make any other publication of such
8 resolution or ordinances under the provisions of existing law.
9 The aforesaid publication of such notice shall be sufficient
10 compliance with such laws.

11 B. On or before the day specified in said notice the
12 municipal authorities shall file with the Secretary of the
13 Commonwealth articles of incorporation together with proof of
14 publication of the notice as aforesaid. Said articles of
15 incorporation shall set forth:

16 * * *

17 (f) A statement that the municipality or municipalities have
18 retained the right which exists under this act to approve any
19 plan of the Authority, in the case of Authorities created for
20 the purpose of making business improvements or providing
21 administrative services, if appropriate.

22 All of which matter shall be determined in accordance with
23 the provisions of this act. Said articles of incorporation shall
24 be executed by each incorporating municipality by its proper
25 officers and under its municipal seal.

26 Section 3. Subsections A and clause (h) of B of section 4 of
27 the act, subsection A amended August 1, 1975 (P.L.164, No.85),
28 clause (h) of subsection B amended December 16, 1975 (P.L.489,
29 No.146), are amended and subsection B and the section are
30 amended by adding a clause and a subsection to read:

1 Section 4. Purposes and Powers; General.--A. Every
2 Authority incorporated under this act shall be a body corporate
3 and politic, and shall be for the purpose of acquiring, holding,
4 constructing, improving, maintaining and operating, owning,
5 leasing, either in the capacity of lessor or lessee, projects of
6 the following kind and character, equipment to be leased by an
7 Authority to the municipality or municipalities that organized
8 it, buildings to be devoted wholly or partially for public uses,
9 including public school buildings, and facilities for the
10 conduct of judicial proceedings, and for revenue-producing
11 purposes; transportation, marketing, shopping, terminals,
12 bridges, tunnels, flood control projects, highways, parkways,
13 traffic distribution centers, parking spaces, airports, and all
14 facilities necessary or incident thereto, parks, recreation
15 grounds and facilities, sewers, sewer systems or parts thereof,
16 sewage treatment works, including works for treating and
17 disposing of industrial waste, facilities and equipment for the
18 collection, removal or disposal of ashes, garbage, rubbish and
19 other refuse materials by incineration, land fill or other
20 methods, steam heating plants and distribution systems,
21 incinerator plants, waterworks, water supply works, water
22 distribution systems, swimming pools, playgrounds, lakes, low
23 head dams, hospitals, health centers, motor buses for public
24 use, when such motor buses are to be used within any
25 municipality, subways and industrial development projects,
26 including but not limited to projects to retain or develop
27 existing industries and the development of new industries, the
28 development and administration of business improvements and
29 administrative services related thereto: Provided, That an
30 Authority created by a school district or school districts shall

1 have the power only to acquire, hold, construct, improve,
2 maintain, operate and lease public school buildings and other
3 school projects acquired, constructed or improved for public
4 school purposes. The purpose and intent of this act being to
5 benefit the people of the Commonwealth by, among other things,
6 increasing their commerce, health, safety and prosperity, and
7 not to unnecessarily burden or interfere with existing business
8 by the establishment of competitive enterprises, none of the
9 powers granted by this act shall be exercised in the
10 construction, improvement, maintenance, extension or operation
11 of any project or projects which in whole or in part shall
12 duplicate or compete with existing enterprises serving
13 substantially the same purposes. This limitation shall not apply
14 to the exercise of the powers granted hereunder for facilities
15 and equipment for the collection, removal or disposal of ashes,
16 garbage, rubbish and other refuse materials by incineration,
17 land fill or other methods, if each municipality organizing or
18 intending to use the facilities of an Authority having such
19 powers shall declare by resolution or ordinance that it is
20 desirable for the health and safety of the people of such
21 municipality that it use the facilities of the Authority, and if
22 any contract between such municipality and any other person,
23 firm or corporation for the collection, removal or disposal of
24 ashes, garbage, rubbish and other refuse material has by its
25 terms expired or is terminable at the option of the municipality
26 or will expire within six months from the date such ordinance
27 becomes effective. This limitation shall not apply to the
28 exercise of the powers granted hereunder for industrial
29 development projects if the Authority does not develop
30 industrial projects which will compete with existing industries.

This limitation shall not apply to the exercise of the powers granted hereunder for Authorities created for the purpose of providing business improvements and administrative services if each municipality organizing an Authority for such a project shall declare by resolution or ordinance that it is desirable for the entire municipality to improve the business district.

This limitation shall also not apply to hospital projects to be leased to public hospitals or nonprofit hospital corporations serving the public if each municipality organizing an Authority for such a project shall declare by resolution or ordinance that it is desirable for the health and safety of the people in the area served by such hospital to have such facilities provided by an Authority. The municipality or municipalities organizing such an Authority may, in the resolution or ordinance signifying their intention so to do, or from time to time by subsequent resolution or ordinance, specify the project or projects to be undertaken by the said Authority, and no other projects shall be undertaken by the said Authority than those so specified. If the municipal authorities organizing an Authority fail to specify the project or projects to be undertaken, then the Authority shall be deemed to have all the powers granted by this act.

B. Every Authority is hereby granted, and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights and powers:

* * *

(h) To fix, alter, charge and collect rates and other charges in the area served by its facilities at reasonable and uniform rates to be determined exclusively by it, for the purpose of providing for the payment of the expenses of the

1 Authority, the construction, improvement, repair, maintenance
2 and operation of its facilities and properties, and, in the case
3 of an Authority created for the purpose of making business
4 improvements or providing administrative services, a charge for
5 such services which is to be based on actual benefits and which
6 may be measured on among other things gross sales or gross or
7 net profits, the payment of the principal of and interest on its
8 obligations, and to fulfill the terms and provisions of any
9 agreements made with the purchasers or holders of any such
10 obligations, or with the municipality incorporating or
11 municipalities which are members of said Authority or with any
12 municipality, served or to be served by said Authority, and to
13 determine by itself exclusively the services and improvements
14 required to provide adequate, safe and reasonable service,
15 including extensions thereof, in the areas served: Provided,
16 That if the service area includes more than one municipality,
17 the revenues from any project shall not be expended directly or
18 indirectly on any other project, unless such expenditures are
19 made for the benefit of the entire service area. Any person
20 questioning the reasonableness or uniformity of any rate fixed
21 by any Authority or the adequacy, safety and reasonableness of
22 the Authority's services, including extensions thereof, may
23 bring suit against the Authority in the court of common pleas of
24 the county wherein the project is located, or if the project is
25 located in more than one county then in the court of common
26 pleas of the county wherein the principal office of the project
27 is located. The court of common pleas shall have exclusive
28 jurisdiction to determine all such questions involving rates or
29 service. Except in municipal corporations having a population
30 density of three hundred persons or more per square mile, all

owners of real property in eighth class counties may decline, in writing, the services of a solid waste authority.

* * *

(w) An Authority, created to provide business improvements and administrative services, may impose an assessment on each benefited property within a business improvement district which shall be based upon the estimated cost of the improvements or services in such district stated in the planning or feasibility study.

Such individual assessments shall be determined by one of the following methods:

(1) By an assessment determined by multiplying the total improvement or service cost by the ratio of the assessed valuation of all benefited properties in the district.

(2) By an assessment upon the several properties in the district in proportion to benefits as ascertained by viewers appointed in accordance with municipal law.

No assessment or charge shall be made unless such Authority has submitted the plan for business improvements and administrative services together with estimated costs and the proposed method of assessments for business improvements and charges for administrative services to the municipality in which the project is to be undertaken and the municipality shall have approved the plan, the estimated costs and the proposed method of assessment and charges.

There shall not be assessed any charges against the improved properties an aggregate amount in excess of the estimated cost.

Such Authority may by resolution authorize the payment of the assessment or charge in equal annual, or more frequent installments over such time and bearing interest at such rate

1 not in excess of six per centum as may be specified in the
2 resolution. Where bonds shall have been issued and sold, or
3 notes or guarantees given or issued, to provide for the cost of
4 the improvements or services the assessment in equal
5 installments for bond repayment shall not be payable beyond the
6 term for which the bonds, notes or guarantees are payable.

7 Claims to secure the assessments shall be entered in the
8 prothonotary's office of the county at the same time and in the
9 form and shall be collected in the same manner as municipal
10 claims are filed and collected notwithstanding the provisions of
11 this section as to installment payments.

12 In the case of default in the payment of any installment and
13 interest for a period of sixty days after it becomes due, the
14 entire assessment and accrued interest shall be due.

15 Any owner of property, against whom an assessment has been
16 made, may pay the same in full, at any time, with accrued
17 interest and costs thereon, and such payment shall discharge the
18 lien of such assessment.

19 * * *

20 E. An Authority may be established to make business
21 improvements or provide administrative services in districts
22 designed herein by the municipality or municipalities acting
23 jointly and zoned commercial or used for general commercial
24 purposes or in contiguous areas, provided the inclusion of a
25 contiguous area is directly related to the improvements and
26 services proposed by such Authority.

27 Such Authority shall make planning or feasibility studies to
28 determine needed improvements or administrative services.

29 Written notice of the proposed improvement or service, the
30 estimated cost thereof and the proposed method of assessment and

1 charges and project cost to individual property owners shall be
2 given to each property owner and commercial lessees in benefited
3 properties in the district at least thirty days prior to the
4 public hearing.

5 Such Authority shall be required to hold a public hearing on
6 the proposed improvement or service, the estimated costs thereof
7 and the proposed method of assessment and charges. Notice of
8 such hearing shall be advertised at least ten days prior thereto
9 in a newspaper whose circulation is within the municipality
10 where such Authority is established. At such public hearing any
11 interested party may be heard.

12 Such Authority shall take no further action on any proposed
13 improvement or service if objection is made in writing by
14 persons representing the ownership of one-third, in numbers of
15 the benefited properties in the district or by property owners
16 of the proposed district whose property valuation as assessed
17 for taxable purposes shall amount to more than one-third of the
18 total property valuation of the district. Objection shall be
19 made within forty-five days after the conclusion of the public
20 hearing on the proposed improvement or service. Objections must
21 be in writing, signed and filed in the office of the governing
22 body of the municipality in which the district is located and in
23 the registered office of such Authority.

24 Section 4. It is hereby determined and declared as a matter
25 of legislative finding--

26 (1) The General Assembly finds that the maintenance of the
27 economy of municipalities is vital to the best interests of the
28 Commonwealth, but that the growth of the economy of many
29 municipalities has been restricted by annexation laws, local tax
30 limits and the inability to tax certain property which is

1 exempt.

2 (2) The General Assembly finds that these restrictions have
3 denied municipalities a share of the economic growth and
4 prosperity experienced in other communities.

5 (3) The General Assembly finds that these restrictions have
6 encouraged the migration of business and people with the
7 resultant erosion of the central business economy, housing stock
8 and tax base of many municipalities and the production of
9 unemployment.

10 (4) The General Assembly finds that the policy of the
11 Commonwealth of Pennsylvania is to promote the health, safety
12 morals, right to gainful employment, business opportunities and
13 general welfare of the inhabitants of municipalities and the
14 public purpose of alleviating unemployment and underemployment
15 in these areas.

16 (5) That in furtherance of such policy and the fulfillment
17 of such public purpose, the Commonwealth of Pennsylvania should
18 provide a means by which improvements can be made and services
19 provided for business in these municipalities.

20 Section 5. This act shall take effect in 60 days.