

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 1688** Session of  
1987

INTRODUCED BY SWEET, JULY 2, 1987

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JULY 2, 1987

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," providing for the financing of projects through loans  
15 by the Authorities.

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

18 Section 1. Section 2(j) of the act of May 2, 1945 (P.L.382,  
19 No.164), known as the Municipality Authorities Act of 1945,  
20 amended July 10, 1981 (P.L.221, No.70), is amended and the  
21 section is amended by adding a clause to read:

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

1 otherwise:

2 \* \* \*

3 (j) The term "project" shall mean equipment to be leased by  
4 an Authority to the municipality or municipalities that  
5 organized it or to any municipality or school district located  
6 wholly or partially within the boundaries of the municipality or  
7 municipalities that organized it, or any structure, facility or  
8 undertaking which an Authority is authorized to acquire,  
9 construct, finance, improve, maintain or operate under the  
10 provisions of this act.

11 \* \* \*

12 (n) The terms "financing," "to finance" or "financed" shall  
13 mean and include the lending or providing of funds to or on  
14 behalf of a person for payment of the costs of a project or for  
15 refinancing such costs, repayment of loans previously incurred  
16 to pay the cost of a project or otherwise.

17 Section 2. Section 4 A(a) and (b), amended December 21, 1984  
18 (P.L.1246, No.236), are amended to read:

19 Section 4. Purposes and Powers; General.--A. Every  
20 Authority incorporated under this act shall be a body corporate  
21 and politic.

22 (a) The Authority shall be for the purpose of acquiring,  
23 holding, constructing, financing, improving, maintaining and  
24 operating, owning, leasing, either in the capacity of lessor or  
25 lessee, projects of the following kind and character:

26 \* \* \*

27 (b) This section is subject to the following limitations:

28 (1) An Authority created by a school district or school  
29 districts shall have the power only to acquire, hold, construct,  
30 improve, maintain, operate and lease public school buildings and

1 other school projects acquired, constructed or improved for  
2 public school purposes.

3 (2) The purpose and intent of this act being to benefit the  
4 people of the Commonwealth by, among other things, increasing  
5 their commerce, health, safety and prosperity, and not to  
6 unnecessarily burden or interfere with existing business by the  
7 establishment of competitive enterprises, none of the powers  
8 granted by this act shall be exercised in the construction,  
9 improvement, maintenance, extension or operation of any project  
10 or projects which in whole or in part shall duplicate or compete  
11 with existing enterprises serving substantially the same  
12 purposes. This limitation shall not apply to the exercise of the  
13 powers granted hereunder:

14 (i) for facilities and equipment for the collection, removal  
15 or disposal of ashes, garbage, rubbish and other refuse  
16 materials by incineration, land fill or other methods, if each  
17 municipality organizing or intending to use the facilities of an  
18 Authority having such powers shall declare by resolution or  
19 ordinance that it is desirable for the health and safety of the  
20 people of such municipality that it use the facilities of the  
21 Authority, and if any contract between such municipality and any  
22 other person, firm or corporation for the collection, removal or  
23 disposal of ashes, garbage, rubbish and other refuse material  
24 has by its terms expired or is terminable at the option of the  
25 municipality or will expire within six months from the date such  
26 ordinance becomes effective; nor

27 (ii) for industrial development projects if the Authority  
28 does not develop industrial projects which will compete with  
29 existing industries; nor

30 (iii) for Authorities created for the purpose of providing

1 business improvements and administrative services if each  
2 municipality organizing an Authority for such a project shall  
3 declare by resolution or ordinance that it is desirable for the  
4 entire municipality to improve the business district; nor  
5 (iv) to hospital projects to be leased to, or financed with  
6 loans to, public hospitals or nonprofit hospital corporations  
7 serving the public or to school building projects and facilities  
8 to be leased to, or financed with loans to, private, nonprofit,  
9 nonsectarian colleges and universities, State-related  
10 universities and community colleges, or to facilities, limited  
11 as described above, to produce steam or to generate electric  
12 power, if each municipality organizing an Authority for such a  
13 project shall declare by resolution or ordinance that it is  
14 desirable for the health, safety and welfare of the people in  
15 the area served by such facilities to have such facilities  
16 provided by, or financed through, an Authority.

17 \* \* \*

18 Section 3. Section 4 B of the act is amended by adding a  
19 clause to read:

20 Section 4. Purposes and Powers; General.--\* \* \*

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

25 \* \* \*

26 (e.1) To finance projects by making loans, which may be  
27 evidenced by, and secured as may be provided in, loan  
28 agreements, mortgages, security agreements or any other  
29 contracts, instruments or agreements, which contracts,  
30 instruments or agreements may contain such provisions as the

1 Authority shall deem necessary or desirable for the security or  
2 protection of the Authority or its bondholders.

3 \* \* \*

4 Section 4. Section 5 B and C of the act are amended to read:

5 Section 5. Purposes and Powers; Bonds.--\* \* \*

6 B. Any resolution or resolutions authorizing any bonds may  
7 contain provisions which shall be part of the contract with the  
8 holders thereof, as to (a) pledging the full faith and credit of  
9 the Authority (but not of the Commonwealth of Pennsylvania or  
10 any political subdivision thereof) for such obligations, or  
11 restricting the same to all or any of the revenues of the  
12 Authority from all or any projects or properties, (b) the  
13 construction, financing, improvement, operation, extension,  
14 enlargement, maintenance and repair of the project and the  
15 duties of the Authority with reference thereto, (c) the terms  
16 and provisions of the bonds, (d) limitations on the purposes to  
17 which the proceeds of the bonds then or thereafter to be issued,  
18 or of any loan or grant by the United States may be applied, (e)  
19 the rate of tolls and other charges for use of the facilities of  
20 or for the services rendered by the Authority, (f) the setting  
21 aside of reserves or sinking funds and the regulation and  
22 disposition thereof, (g) limitations on the issuance of  
23 additional bonds, (h) the terms and provisions of any deed of  
24 trust or indenture securing the bonds, or under which the same  
25 may be issued, and (i) any other or additional agreements with  
26 the holders of the bonds.

27 C. Any Authority may enter into any deeds of trust,  
28 indentures or other agreements, with any bank or trust company,  
29 or other person or persons in the United States having power to  
30 enter into the same, including any Federal agency, as security

1 for such bonds, and may assign and pledge all or any of the  
2 revenues or receipts of the Authority thereunder. Such deed of  
3 trust, indenture or other agreement, may contain such provisions  
4 as may be customary in such instruments, or as the Authority may  
5 authorize, including (but without limitation) provisions as to  
6 (1) the construction, financing, improvement, operation,  
7 maintenance and repair of any project, and the duties of the  
8 Authority with reference thereto, (2) the application of funds  
9 and the safeguarding of funds on hand or on deposit, (3) the  
10 rights and remedies of said trustee and the holders of the  
11 bonds, (which may include restrictions upon the individual right  
12 of action of such bondholders) and (4) the terms and provisions  
13 of the bonds or the resolutions authorizing the issuance of the  
14 same.

15 Said bonds shall have all the qualities of negotiable  
16 instruments under the law merchant and the negotiable  
17 instruments law of the Commonwealth of Pennsylvania.

18 Section 5. This act shall take effect immediately.