

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1558 Session of
2004

INTRODUCED BY WRIGHT, WATSON, STEIL, O'NEILL, BUNT, CLYMER,
CORRIGAN, DENLINGER, FAIRCHILD, FRANKEL, KILLION, LEDERER,
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THOMAS AND YOUNGBLOOD, MAY 10, 2004

REFERRED TO COMMITTEE ON COMMERCE, MAY 10, 2004

AN ACT

1 Amending the act of April 6, 1956 (1955 P.L.1414, No.465),
2 entitled, as amended, "An act to promote the welfare of the
3 people of this Commonwealth; creating Port Authorities to
4 function in counties of the second class as bodies corporate
5 and politic, with power to plan, acquire, construct, maintain
6 and operate facilities and projects for the improvement and
7 development of the port district and to borrow money and
8 issue bonds therefor; providing for the payment of such bonds
9 and prescribing the rights of the holders thereof; conferring
10 the right of eminent domain on the authorities; authorizing
11 the authorities to enter into contracts with and to accept
12 grants from the Federal government or any agency thereof; and
13 conferring exclusive jurisdiction on certain courts over
14 rates and services; and authorizing the authorities to
15 collect tolls, fares, fees, rentals and charges for the use
16 of facilities; defining the authorities' powers and duties,
17 and defining the port districts; granting Port Authorities
18 the exclusive right to engage in the business of owning,
19 operating, and maintaining a transportation system for the
20 transportation of persons in counties of the second class,
21 providing, when necessary, for extension of transportation
22 systems into adjoining counties and outside of said counties
23 as provided in the act; limiting the jurisdiction of the
24 Public Utility Commission over Port Authorities; authorizing
25 municipalities to make loans and grants and to transfer
26 existing facilities; authorizing Port Authorities to enter
27 into contracts with and to accept grants from State and local
28 governments or agencies thereof; exempting the property and
29 facilities of such Port Authorities from taxation and
30 limiting the time to commence civil action against said
31 Authorities," further providing for title of act and for
32 legislative findings; further defining "port district";

1 authorizing second class A counties to create port
2 authorities; and further providing for powers of port
3 authorities, for membership of board, for power to convey
4 property to port authorities, for plan of integrated
5 operation and for short title.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. The title of the act of April 6, 1956 (1955
9 P.L.1414, No.465), known as the Second Class County Port
10 Authority Act, amended October 7, 1959 (P.L.1266, No.429), is
11 amended to read:

12 AN ACT

13 To promote the welfare of the people of this Commonwealth;
14 creating Port Authorities to function in counties of the
15 second class and second class A as bodies corporate and
16 politic, with power to plan, acquire, construct, maintain and
17 operate facilities and projects for the improvement and
18 development of the port district and to borrow money and
19 issue bonds therefor; providing for the payment of such bonds
20 and prescribing the rights of the holders thereof; conferring
21 the right of eminent domain on the authorities; authorizing
22 the authorities to enter into contracts with and to accept
23 grants from the Federal government or any agency thereof; and
24 conferring exclusive jurisdiction on certain courts over
25 rates and services; and authorizing the authorities to
26 collect tolls, fares, fees, rentals and charges for the use
27 of facilities; defining the authorities' powers and duties,
28 and defining the port districts; granting Port Authorities
29 the exclusive right to engage in the business of owning,
30 operating, and maintaining a transportation system for the
31 transportation of persons in counties of the second class and
32 second class A, providing, when necessary, for extension of

1 transportation systems into adjoining counties and outside of
2 said counties as provided in the act; limiting the
3 jurisdiction of the Public Utility Commission over Port
4 Authorities; authorizing municipalities to make loans and
5 grants and to transfer existing facilities; authorizing Port
6 Authorities to enter into contracts with and to accept grants
7 from State and local governments or agencies thereof;
8 exempting the property and facilities of such Port
9 Authorities from taxation and limiting the time to commence
10 civil action against said Authorities.

11 Section 2. Section 1 of the act, amended October 7, 1959
12 (P.L.1266, No.429) and December 30, 1970 (P.L.953, No.300), is
13 amended to read:

14 Section 1. It is hereby determined and declared as a matter
15 of legislative finding:

16 (1) That a greater utilization of the rivers in the
17 Commonwealth is necessary for the increased commerce and
18 prosperity of the people of the Commonwealth.

19 (2) The increased commerce and prosperity of the people of
20 the Commonwealth require, in counties of the second class and
21 second class A, more effective coordination of the combined
22 facilities of water, rail, air and highway.

23 (3) That the expanding industrial activities of the
24 Commonwealth require the planning, designing, construction,
25 erection and operation of port facilities in counties of the
26 second class and second class A.

27 (4) That property values in counties of the second class are
28 threatened with irreparable loss for the lack of port facilities
29 available to industry.

30 (5) The crisis in industrial transportation, which threatens

1 the welfare of the Commonwealth, can be reduced by providing
2 adequate port facilities.

3 (6) That in counties of the second class and second class A
4 there has been and is an ever increasing growth in the
5 industrial, commercial and residential areas, requiring adequate
6 and modern facilities for the mass transportation of passengers.

7 (7) That the existing transportation facilities are and have
8 been unable to adequately serve the growing areas in counties of
9 the second class and second class A, to the detriment of the
10 health, safety and general welfare of the inhabitants.

11 (8) That the well-being and economic health of the counties
12 of the second class and second class A require an integrated
13 system of mass passenger transportation.

14 (9) That it is desirable that the public transportation
15 system be combined, improved, extended and supplemented by the
16 creation of authorities as herein provided.

17 (10) That the establishment of a port authority will promote
18 the public safety, convenience and welfare.

19 (11) That it is intended that the authority cooperate with
20 and/or acquire existing transportation facilities, that private
21 enterprise and government may mutually provide adequate port
22 facilities for the convenience of the public.

23 (12) That it is intended that the authorities created
24 hereunder will cooperate with all municipalities and other
25 public bodies in which they operate so that the mass passenger
26 transportation system may best serve the interests of the
27 residents thereof.

28 Therefore, it is hereby declared to be the policy of the
29 Commonwealth of Pennsylvania to promote the safety and welfare
30 of the inhabitants thereof by the creation of a body corporate

1 and politic for each second class county and second class A
2 county, to be known as The Port Authority of (insert name of
3 county), which shall exist and operate for the purposes
4 contained in this act. Such purposes are hereby declared to be
5 public uses for which public money may be spent and private
6 property may be acquired by the exercise of the power of eminent
7 domain.

8 Section 3. Section 2(2) of the act is amended to read:

9 Section 2. As used in this act:

10 * * *

11 (2) The term "port district" shall mean all the territory
12 within a second class or second class A county.

13 * * *

14 Section 4. Section 3(a) of the act, amended December 30,
15 1970 (P.L.953, No.300), is amended to read:

16 Section 3. (a) There are hereby created bodies corporate
17 and politic in counties of the second class and second class A,
18 to be known as Port Authority of (insert name of county), which
19 shall constitute public bodies corporate and politic; exercising
20 the public powers of the Commonwealth as an agency thereof. Each
21 authority shall be for the purpose of planning, acquiring,
22 holding, constructing, improving, maintaining and operating,
23 owning, leasing, either as lessor or lessee, port facilities
24 within the port district, and a transportation system in the
25 county by which it is incorporated and outside of the county to
26 the extent necessary for (i) the establishment of an integrated
27 system; (ii) the establishment of additional transit service
28 where none at the time is being otherwise rendered; (iii) the
29 establishment of rapid transit facilities over jointly used or
30 exclusive fixed rights of way and (iv) the rendering of all

1 group and party services which can be provided by transportation
2 systems subject to acquisition under this act pursuant to
3 certificates of public convenience issued them by the
4 Pennsylvania Public Utility Commission.

5 * * *

6 Section 5. Section 6 of the act, amended June 18, 1999
7 (P.L.72, No.11), is amended to read:

8 Section 6. Subject to the provisions of section 6.1, the
9 powers of the authority shall be exercised by a board, composed
10 of the number of members, not more than nine, one of whom shall
11 at all times be a member of the county council appointed by the
12 county executive or a member of the county commissioners
13 appointed by them, as shall be fixed by the county council or
14 county commissioners of each county of the second class and
15 second class A. The county executive or county commissioners of
16 each county of the second class and second class A shall appoint
17 the members of the board, all of whom shall be residents of such
18 county and citizens of the United States, whose terms of office
19 shall commence on the date of appointment, one member shall
20 serve for one year, one for two years, one for three years, and
21 one for four years, and one for five years, from the first day
22 of January next succeeding the date of approval of this act, and
23 terms of other members shall be staggered in a similar manner
24 but in no instance shall exceed five years. Thereafter, whenever
25 a vacancy has occurred or is about to occur by reason of the
26 expiration of the term of any member, the county executive or
27 county commissioners shall appoint a member for a term of five
28 years to succeed the member whose term has expired or is about
29 to expire. Members shall hold office until their successors have
30 been appointed, and may succeed themselves. A member shall

1 receive such compensation for his services as the county
2 executive or county commissioners shall determine and shall be
3 entitled to the necessary expenses, including traveling expenses
4 incurred in the performance of his duties. Within ninety days
5 after the creation of the authority, the board shall meet and
6 organize by electing from their number a chairman, a vice
7 chairman, and such other officers as the board may determine.
8 The board may employ a secretary, an executive director, its own
9 counsel and legal staff and such technical experts and other
10 agents and employes, permanent or temporary, as it may require,
11 and may determine the qualifications and fix the compensation of
12 such persons. Six members of the board shall constitute a quorum
13 for its meetings. Members of the board shall not be liable
14 personally on the bonds or other obligations of the authority,
15 and the rights of creditors shall be solely against such
16 authority. The board may delegate to one or more of its agents
17 or employes such of its powers as it shall deem necessary to
18 carry out the purposes of this act, subject always to the
19 supervision and control of the board. The board shall have full
20 authority to manage and operate the business of the authority
21 and to prescribe, amend and repeal by-laws, rules and
22 regulations governing the manner in which the business of the
23 authority may be conducted and the powers granted to it may be
24 exercised and embodied. Copies of such by-laws, rules and
25 regulations shall be filed with the county council of the county
26 incorporating the authority. A member may be removed for cause
27 by the court of common pleas of the county in which the
28 authority is located after having been provided with a copy of
29 the charges against the member for at least ten days and a full
30 hearing by the court.

1 If a vacancy occurs by reason of the death, resignation or
2 removal of a member, the county executive or county
3 commissioners shall appoint a successor to fill the unexpired
4 term.

5 Section 6. Section 6.1 of the act, added October 7, 1959
6 (P.L.1266, No.429), is amended to read:

7 Section 6.1. In addition to the members of the board
8 provided for in section 6 of this act, the county commissioners
9 of each county adjoining to a county of the second class or
10 second class A, may appoint a representative of such adjoining
11 county to the board, who shall have the power to participate in
12 and vote only on matters directly affecting rates and services
13 within the county represented by such member. Such
14 representative shall be appointed for a term of five (5) years
15 and shall receive compensation in accordance with the provisions
16 of section 6.

17 Section 7. Section 13 of the act, amended March 20, 1963
18 (P.L.5, No.3) and December 30, 1970 (P.L.953, No.300), is
19 amended to read:

20 Section 13. Any municipality or owner is hereby authorized
21 to sell, lease, lend, grant, transfer or convey to the
22 authority, with or without consideration, any facility or any
23 part or parts thereof, or any interest in real or personal
24 property which may be used by the authority in the construction,
25 improvement, maintenance or operation of any facility. Any
26 municipality is also authorized to transfer, sell, assign and
27 set over to the authority any contracts which may have been
28 awarded by such municipality for the construction of facilities
29 not begun, or if begun, not completed. Any county of the second
30 class or second class A is hereby empowered to issue general

1 obligation or non-debt revenue bonds for the purpose of
2 providing funds for the acquisition, construction or improvement
3 of any facility. Any county of the second class or second class
4 A may and it is hereby authorized to make grants or loans from
5 current revenues or the proceeds of general obligation bonds to
6 the authority to assist in defraying the costs of any
7 demonstration, test or experimental projects, and the costs of
8 studies in preparation of a plan of integrated operation and for
9 the operation, maintenance and debt service of any facility and
10 to enter into long term agreements providing for the payment of
11 such grants.

12 Any county wherein any part of a transportation system as
13 established under this act is operating or is proposed to
14 operate is hereby empowered (i) to issue general obligation
15 bonds for the purpose of providing funds for the acquisition,
16 construction or improvement of the transportation system; (ii)
17 to make grants or loans from current revenues or the proceeds of
18 general obligation bonds to the authority to assist in defraying
19 the cost of any demonstration test or experimental projects and
20 the cost of studies in preparation of a plan of integrated
21 operation and the improvement of the transportation system and
22 for the operation, maintenance and debt service of the
23 transportation system and to enter into long term agreements
24 with the authority and with one or more other counties served by
25 the transportation system providing for the payment of such
26 grants.

27 Section 8. Section 13.1 of the act, amended or added October
28 7, 1959 (P.L.1266, No.429), March 20, 1963 (P.L.5, No.3) and
29 December 30, 1970 (P.L.953, No.300), is amended to read:

30 Section 13.1. The authority, immediately upon its

1 organization, shall commence its study of an integrated system
2 of mass transportation within the service area. Such study shall
3 include, but not be limited to the estimated cost of acquisition
4 of existing transportation systems, the development of
5 facilities, the estimates of revenues and the financial
6 feasibility of an integrated system of mass transportation.
7 Thereafter, the authority shall prepare a plan of integrated
8 operation showing the service area and the pattern of its
9 integrated system. The plan of integrated operation shall be
10 submitted for approval to the board of county commissioners of
11 the county incorporating the authority, and simultaneously, the
12 authority shall submit to the board of county commissioners the
13 recommendation of the authority on the plan of integrated
14 operation, and a schedule disclosing estimated cost of
15 acquisition of existing transportation systems, estimates of
16 revenue and expenditures for the proposed plan of integrated
17 operation, and the proposed method of financing the acquisition
18 and the plan of integrated operation. The board of county
19 commissioners shall advertise the fact that the plan of
20 integrated operation has been submitted and is available for
21 public inspection at least once each week for two consecutive
22 weeks in a newspaper of general circulation in the county:
23 Provided, That no action may be taken by the board of county
24 commissioners until the plan of integrated operation has been on
25 file in the office of the county commissioners and available for
26 public inspection for a period of at least thirty days following
27 the date of publication of the second notice. The board of
28 county commissioners may approve or reject the plan of
29 integrated operation as submitted or, at any time thereafter,
30 direct the authority to revise the original plan of integrated

1 operation. In the event of a revision of the original plan of
2 integrated operation, such revised plan of integrated operation
3 shall be resubmitted to the board of county commissioners and
4 shall be acted upon in the same manner as herein provided in the
5 case of the submission by the authority of the original plan of
6 integrated operation. Prior to approving or rejecting the plan
7 of integrated operation or revised plan of integrated operation,
8 the board of county commissioners may submit the question of
9 approval of such plan or revised plan of integrated operation
10 for referendum at any general, municipal or primary election. In
11 the event of a referendum, the question shall be submitted on
12 the ballot or on voting machines in the manner provided by the
13 election laws of the Commonwealth and shall be in substantially
14 the following form:

15 Shall the board of county commissioners of
16 County approve the integrated Yes.....
17 plan of operation of a mass transportation
18 system submitted under the provisions of No.....
19 the Second Class and Second Class A County Port Authority
20 Act?

21 The referendum on this question shall be governed in all
22 respects by the election laws of the Commonwealth in so far as
23 they are applicable. Upon final approval by the board of county
24 commissioners, the original or revised plan of integrated
25 operation shall be recorded in the office of the recorder of
26 deeds of the county or counties affected thereby and a copy of
27 said plan of integrated operation shall also be filed with the
28 Pennsylvania Public Utility Commission. The authority shall,
29 thereafter, have the right to make such changes in the pattern
30 of its integrated system and its service area as it may deem

1 proper, subject to appeal to the court of common pleas in the
2 same manner as provided for in clause (9) of subsection (b) of
3 section 3 of this act, by adopting an amendment to the plan of
4 integrated operation or service area and filing and recording
5 the same in the office of the recorder of deeds and with the
6 Pennsylvania Public Utility Commission as above provided. The
7 authority shall not have power to acquire by purchase,
8 condemnation or otherwise, any existing transportation systems,
9 or engage in the operation of a transportation system as
10 provided under this act, until it has met the requirements for
11 recording and filing of the plan of integrated operation as
12 provided herein: Provided, however, That the authority may enter
13 into option agreements with any existing transportation systems
14 for the purchase, lease or operation thereof, subject to the
15 final approval of the plan of integrated operation by the board
16 of county commissioners: Provided further, That nothing in this
17 section, including the foregoing proviso clause, shall prevent,
18 limit, restrict or interfere with in any way an undertaking or
19 joining by the authority of any demonstration, test or
20 experimental project relevant to, and necessary for, the
21 establishment of an integrated transportation system or of any
22 demonstration, test or experimental project that may be
23 required, or advisable, to establish the feasibility of an
24 integrated transportation system.

25 Upon the recording of the plan of integrated operation, any
26 law to the contrary notwithstanding, the authority shall have
27 exclusive jurisdiction with respect to all matters regarding its
28 transportation system within the service area as set forth in
29 the plan of operation or as from time to time changed as in this
30 section provided. The Public Utility Commission shall have no

1 authority to grant certificates of public convenience for a
2 transportation system within the service area of the authority
3 or for the establishment of group and party rights to operate
4 wholly within such service area. The Public Utility Commission
5 shall continue to have jurisdiction, except as otherwise
6 provided in this section, with respect to all matters regarding
7 those transportation systems and group and party rights to
8 operate into or out of said service area.

9 The authority shall have the exclusive right to operate a
10 transportation system within the service area as set forth in
11 the plan of integrated operation, except for those
12 transportation systems operating into the said service area from
13 points outside of said area, which companies shall have the
14 right to pick up and discharge passengers destined to and from
15 the territory outside of said area but not the right to pick up
16 and discharge passengers entirely within the service area. Said
17 excepted transportation systems by agreement with the authority
18 may arrange for the pick up and discharge of passengers within
19 the said service area when, in the opinion of the authority,
20 such privilege will serve the purpose for which the authority
21 was created. The authority may, also by agreement with an
22 existing transportation system now servicing the said service
23 area, permit a continuation of such services where, in the
24 opinion of the authority, such privilege will serve the purpose
25 for which the authority was created. In the event no such
26 agreement is entered into between the excepted transportation
27 systems and the authority prior to the authority commencing to
28 operate a mass transportation system in the service area, the
29 authority shall be liable for all direct and consequential
30 damages for any loss in value of the remaining portions of the

1 system arising from the loss of the right to pick up and
2 discharge passengers entirely within the service area.

3 The authority shall, within two years after approval by the
4 board of county commissioners and the recording and filing of
5 the plan of integrated operation in the office of the recorder
6 of deeds and with the Pennsylvania Public Utility Commission as
7 hereinabove provided, acquire by purchase, lease or eminent
8 domain, or shall enter into an operation contract with all
9 transportation systems operating entirely within the county in
10 which the authority is created or eighty per centum of whose
11 revenue vehicle miles for the preceding calendar year are
12 operated within said county, except those transportation systems
13 subject to the jurisdiction of the Interstate Commerce
14 Commission: Provided, That the court of common pleas of the
15 county in which such authority is created may, upon cause shown,
16 extend the two-year period hereinbefore mentioned: And provided,
17 That if the authority shall at any time desire to abandon or
18 change any portion of a transportation system outside the
19 territorial limits of the county incorporating the authority,
20 the approval for such abandonment or change must be secured by
21 the authority from the Pennsylvania Public Utility Commission:
22 And provided further, That all group and party services provided
23 by the authority outside the service area under rights acquired
24 by it pursuant to this act shall be subject to the regulation by
25 the Pennsylvania Public Utility Commission.

26 Section 9. Section 13.5 of the act, added October 7, 1959
27 (P.L.1266, No.429), is amended to read:

28 Section 13.5. This act shall be known and may be cited as
29 the Second Class and Second Class A County Port Authority Act."

30 Section 10. This act shall take effect in 60 days.