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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 589      Session of  
1989

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INTRODUCED BY CARN, WESTON, JOSEPHS, THOMAS, JAMES, ROEBUCK,  
ACOSTA, COHEN, PRESTON, SALOOM, FOX, OLIVER, TIGUE, CAWLEY,  
HARPER, DALEY, ROBINSON, BELARDI, RICHARDSON, EVANS, WILLIAMS  
AND J. TAYLOR, FEBRUARY 15, 1989

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AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 12, 1989

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AN ACT

1 To provide an optional automobile insurance plan to cover, at an  
2 affordable rate, all responsible drivers in cities of the  
3 first class; and creating the Philadelphia Automobile  
4 Insurance Authority and defining its powers and duties.

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1 The General Assembly of the Commonwealth of Pennsylvania  
2 hereby enacts as follows:

3 Section 1. Short title.

4 This act shall be known and may be cited as the Philadelphia  
5 Automobile Insurance Authority Act.

6 Section 2. Definitions.

7 The following words and phrases when used in this act shall  
8 have the meanings given to them in this section unless the  
9 context clearly indicates otherwise:

10 "Authority" or "Philadelphia Automobile Insurance Authority."  
11 An agency and public instrumentality of this Commonwealth and a  
12 body politic and corporate created pursuant to this act.

13 "Board." The governing body of an authority.

14 "City." Any city or county of the first class.

15 "Commissioner." The Insurance Commissioner of the  
16 Commonwealth.

17 "Federal agency" or "Federal Government." The United States,  
18 the President of the United States and any department or  
19 corporation, agency or instrumentality heretofore or hereafter  
20 created, designated or established by the United States.

21 "Plan." The detailed proposals and recommendations issued by  
22 the authority which would provide adequate and fair coverage to  
23 all responsible drivers within cities of the first class and  
24 which address the issues of fraud, high rates and other  
25 insurance problems that plague large cities.

26 "Secretary." The Secretary of the Budget of the  
27 Commonwealth.

28 "State public body." The Commonwealth and its agencies  
29 (executive, administrative and independent), departments,  
30 officers, boards, authorities, commissions and

1 instrumentalities.

2 Section 3. Authority created.

3 A body corporate and politic, to be known as the Philadelphia  
4 Automobile Insurance Authority, is hereby created as a public  
5 authority and government instrumentality to have continuing  
6 succession until its existence is terminated by law. The  
7 exercise by the authority of the powers conferred by this act is  
8 hereby declared to be and shall for all purposes be deemed and  
9 held to be the performance of an essential public function. The  
10 Philadelphia Automobile Insurance Authority is exempt from  
11 participation in the Pennsylvania Insurance Guaranty Association  
12 provided by the act of November 25, 1970 (P.L.716, No.232) known  
13 as The Pennsylvania Insurance Guaranty Association Act.

14 Section 4. Rights, powers and purposes.

15 (a) General powers and purposes.--Every authority created by  
16 this act shall be a public body, corporate and politic,  
17 exercising public powers of the Commonwealth as an agency and  
18 instrumentality thereof and shall be for the purpose, without  
19 limitation, by itself or by agreement in cooperation with  
20 others, of acquiring, providing, holding, managing, operating,  
21 financing, insuring or guaranteeing assets for the purposes of  
22 providing automobile insurance other motor vehicle insurance and  
23 establishing automobile and other motor vehicle insurance rates  
24 that are fair to most drivers in cities of the first class.

25 (b) Specific powers and purposes.--The authority is granted  
26 all powers necessary or convenient for the carrying out of the  
27 aforesaid purposes, including, without limiting the generality  
28 of the foregoing, the following rights, powers and purposes:

29 (1) To implement a health care cost containment program  
30 with set fees for services and a peer review process.

1           (2) To require the use of anti-theft and anti-vandalism  
2 techniques and devices and provide for discounts with their  
3 use.

4           (3) To exempt participants in the authority's insurance  
5 plan from established minimum required auto coverages to the  
6 following minimum requirements:

7               (i) Bodily injury liability of \$15,000 per person.

8               (ii) Bodily injury liability of \$30,000 per  
9 accident.

10              (iii) Property damage liability of \$5,000.

11           ~~(4) To contract with particular well managed, skilled~~ <—  
12 ~~and low cost body shops in order to provide special deduction~~  
13 ~~to individuals that use the services of these "preferred~~  
14 ~~shops."~~

15           ~~(5)~~ (4) To provide collision and comprehensive coverages  
16 with a \$500 deductible or more.

17           ~~(6)~~ (5) To require medical bills to exceed \$10,000 or <—  
18 injuries resulting in permanent disability or disfigurement  
19 before a suit can be filed in court.

20           ~~(7)~~ (6) To implement fraud control programs and other <—  
21 activities.

22           ~~(8)~~ (7) To have continuing succession. <—

23           ~~(9)~~ (8) To sue and be sued, implead and be impleaded, <—  
24 complain and defend in all courts.

25           ~~(10)~~ (9) To adopt, use and alter, at will, a corporate <—  
26 seal.

27           ~~(11)~~ (10) To acquire by gift or otherwise, purchase, <—  
28 hold, receive, lease, sublease and use any license, franchise  
29 or property, real, personal or mixed, tangible or intangible,  
30 or any interest therein.

1           ~~(12)~~ (11) To sell, transfer or dispose of any property       <—  
2       or interest therein with adequate and fair consideration.  
3           ~~(13)~~ (12) To make bylaws for the management and               <—  
4       regulation of its affairs and issue rules, regulations and  
5       policies in connection with the performance of its functions  
6       and duties.  
7           ~~(14)~~ (13) To appoint officers, agents, employees and       <—  
8       servants, to prescribe their duties and to fix their  
9       compensation.  
10          ~~(15)~~ (14) To fix, alter, charge and collect insurance       <—  
11       premiums, payments, fees and other charges.  
12          ~~(16)~~ (15) To borrow money for the purpose of paying the       <—  
13       costs of any plan and to evidence the same.  
14          ~~(17)~~ (16) To make, enter into and award contracts of       <—  
15       every name and nature and to execute all instruments  
16       necessary or convenient for the carrying out of its business.  
17          ~~(18)~~ (17) To borrow money and accept grants and to enter       <—  
18       into contracts, leases, subleases, licenses or other  
19       transactions with any Federal agency, State public body,  
20       political subdivision, person, association, partnership or  
21       corporation.  
22          ~~(19)~~ (18) To pledge, hypothecate or otherwise encumber       <—  
23       any of its property, real, personal or mixed, tangible or  
24       intangible, and its revenues or receipts.  
25          ~~(20)~~ (19) To invest its money.                               <—  
26          ~~(21)~~ (20) To cooperate with any Federal agency, State       <—  
27       public body or political subdivision.  
28          ~~(22)~~ (21) To invest any funds held in reserve or sinking       <—  
29       funds, or any funds not required for immediate disbursements,  
30       as authorized by section 13(d).

1           ~~(23)~~ (22) To appoint all officers, agents and employees     <—  
2       required for the performance of its duties and fix and  
3       determine their qualifications, duties and compensation and  
4       retain or employ other agents or consultants, including, but  
5       not limited to, auditors, private counsel and private  
6       consultants on a contract basis or otherwise for rendering  
7       professional or technical services and advice.

8           ~~(24)~~ (23) To enroll its employees in an existing             <—  
9       retirement system of the State, city or other governmental  
10      entity.

11          ~~(25)~~ (24) To appoint and fix the compensation of chief     <—  
12      counsel and such assistant counsel to provide it with legal  
13      assistance, for which purpose the authority shall not be  
14      considered either an executive agency or an independent  
15      agency for the purpose of the act of October 15, 1980  
16      (P.L.950, No.164), known as the Commonwealth Attorneys Act,  
17      but shall possess the same status for such purpose as the  
18      Auditor General, State Treasurer and the Pennsylvania Public  
19      Utility Commission, except that the provisions of section  
20      204(b) and (f) of the Commonwealth Attorneys Act shall not  
21      apply to the authority, and, notwithstanding the provisions  
22      of 42 Pa.C.S. § 8525 (relating to legal assistance), the  
23      authority through its counsel shall defend actions brought  
24      against the authority and its officers and employees when  
25      acting within the scope of their official duties.

26          ~~(26)~~ (25) To maintain an office in the city.                 <—

27          ~~(27)~~ (26) To appoint an executive director, who shall be     <—  
28      the chief executive officer of the authority, who shall  
29      devote his full time during business hours to the duties of  
30      his office and who shall receive compensation as the board

1 shall determine.

2 ~~(28)~~ (27) To do all acts and things necessary or <—  
3 convenient for the promotion of its purposes and the general  
4 welfare of the authority and to carry out the powers granted  
5 to it by this act or any other acts.

6 (c) Limitation.--The authority shall have no power to pledge  
7 the credit or taxing powers of any State public body, any  
8 political subdivision or the city, nor shall any of its  
9 obligations be deemed obligations of any State public body, any  
10 political subdivision or the city, nor shall any State public  
11 body, any political subdivision or the city, be liable for the  
12 payment of principal or interest on such obligations.

13 (d) Affirmative action.--The authority shall develop and  
14 implement an affirmative action plan to assure that all persons  
15 are accorded equality of opportunity in treatment, employment  
16 and contracting by the authority, its contractors,  
17 subcontractors, assignees, lessees and agents.

18 Section 5. Operating budgets.

19 (a) Operating budget.--At least 90 days before the  
20 commencing of the ensuing fiscal year of the authority, the  
21 board shall cause to be prepared and submitted to it a  
22 recommended operating budget. The operating budget shall set  
23 forth the estimated receipts and revenues of the authority  
24 during the next fiscal year. The board shall, at least 30 days  
25 before the end of the fiscal year, adopt, by a majority vote of  
26 its members, an operating budget for the next fiscal year.

27 (b) Insurance plan.--Notwithstanding any other provisions of  
28 this law to the contrary, the design for any plan undertaken by  
29 the authority shall be submitted to the commissioner for  
30 approval. No such plan may be undertaken by the authority unless

1 and until approved by the commissioner. Upon approval, the  
2 commissioner may issue a certificate of authority to do  
3 business.

4 Section 6. Governing board.

5 (a) Power.--The power of the authority shall be exercised by  
6 a governing board (hereinafter called the "board") composed of  
7 seven members.

8 (1) The Governor shall appoint two members who shall be  
9 residents of counties of the first class. The members  
10 initially appointed pursuant to this paragraph shall serve  
11 two years. If any vacancy is created by any of the members  
12 provided by this subsection, appointments shall be made by  
13 the governor.

14 (2) The Governor shall appoint two members who shall  
15 represent the Commonwealth at large, who shall not be members  
16 of the same political party. The members initially appointed  
17 pursuant to this paragraph shall serve for terms coincident  
18 with the term of the Governor. The Governor shall appoint the  
19 two members from each of two lists of at least four nominees,  
20 each prepared and submitted to the Governor respectively by  
21 the floor leaders of the Senate and the House of  
22 Representatives who belong to the same political party. Each  
23 floor leader may contribute at least two names to the  
24 appropriate list and shall submit such nominees to the  
25 Governor. The Governor shall select a member from each list  
26 within 30 days of receipt of each list, or else may request  
27 one substitute list of nominees from both or either group of  
28 floor leaders. If both or either group of floor leaders fail  
29 to submit a list of nominees within 30 days of a request to  
30 do so by the Governor or fail to submit a receipt of a



1 request to do so, the Governor may appoint such member or  
2 members, for which lists of nominees were not submitted, at  
3 his discretion. In the event one of the two floor leaders  
4 responsible for the submission of nominees for a list fails  
5 to submit such nominees, the Governor shall act upon the  
6 nominees submitted by the other floor leader as if he had  
7 received nominees from both floor leaders. If the Governor  
8 fails to select a member from either list of nominees within  
9 30 days of receipt of such list and fails to request a  
10 substitute list, or fails to select a member from the  
11 substitute list within 30 days of receipt of such list, the  
12 floor leaders who prepared the list may appoint a member to  
13 serve on the board. Whenever a vacancy occurs prior to the  
14 completion of the term of office of a member appointed  
15 pursuant to this subsection, the floor leaders belonging to  
16 the same political party as the board member whose seat has  
17 become vacant did at the time of appointment of such member  
18 shall submit a list of nominees to replace such member to the  
19 Governor. In the event of a vacancy in the office of an  
20 initial gubernatorial appointee, a replacement member shall  
21 be appointed pursuant to the procedures set forth in this  
22 subsection.

23 (3) The chief executive officer of the city of the first  
24 class shall appoint two members. The terms of office of such  
25 members shall run concurrently with the term of office of  
26 such appointing authority.

27 (4) The initial appointment of board members shall have  
28 no force and effect unless and until the six members provided  
29 by paragraphs (1), (2) and (3) have been appointed, which  
30 event shall constitute the formation of the board.

1           (5) The six members so appointed shall appoint a seventh  
2 member, who shall serve as chairman of the board, by a vote  
3 of at least four members of the board. The initial term of  
4 the chairman shall be for a term of four years. In the event  
5 that the members cannot agree on the initial seventh member  
6 within 90 days of the creation of the authority, or the  
7 members cannot agree upon the selection of a chairman in the  
8 event the office of chairman becomes vacant within 90 days of  
9 the occurrence of such vacancy, the Governor shall appoint  
10 the member. The chairman may be removed and a new chairman  
11 may be selected by the vote of five members of the board.

12           (6) If, at any time, the commissioner is not an  
13 appointed member of the board, he shall serve as a nonvoting  
14 ex officio member of the board.

15       (b) Terms and vacancies.--Except as otherwise provided,  
16 initial board members shall serve until their successors have  
17 been appointed and qualified. Thereafter, except as otherwise  
18 provided, members shall serve a term from the date of their  
19 appointment and until their successors have been appointed and  
20 qualified. If a vacancy shall occur by means of the death,  
21 disqualification, resignation or removal of a member or the  
22 chairman, subject to the provisions of subsection (a), the  
23 appointing authority shall appoint a successor to fill his  
24 unexpired term.

25       (c) Compensation.--Subject to such aggregate per annum  
26 limitation and any other rules and regulations as the board  
27 shall determine, a member shall receive \$125 per diem when  
28 engaged in the exercise of his duties for the authority and  
29 shall also be entitled to necessary expenses, including  
30 traveling expenses, incurred in the discharge of his duties. In

1 addition, the chairman of the board of the authority shall be  
2 entitled to receive such additional compensation as the board  
3 shall determine. No other member of the board shall be entitled  
4 to any additional compensation for extra service provided to the  
5 authority. The per diem amount may be increased by a vote of  
6 five members of the board, but any such increase shall not apply  
7 during the term of office of board members voting or eligible to  
8 vote on such per diem increase.

9 (d) Organization.--The members of the board shall select  
10 from among themselves a vice chairman and such other officers as  
11 the board may determine. Except as otherwise provided, all  
12 actions of the board shall be taken by a vote of at least four  
13 members of the board, which shall constitute a majority of the  
14 board, unless the bylaws of the authority shall provide for a  
15 greater vote. The board shall have full authority to manage the  
16 business of the authority and to prescribe, amend and repeal  
17 bylaws, rules and regulations governing the manner in which the  
18 business of the authority may be conducted and the powers  
19 granted to it may be exercised and embodied. Notwithstanding any  
20 other law, court decision, precedent or practice to the  
21 contrary, no actions by or on behalf of the board shall be taken  
22 by any officer of the board except upon the approval of a  
23 majority of the board. The term "actions by or on behalf of the  
24 board" means any action whatsoever of the board, including, but  
25 not limited to, the hiring, appointment, removal, transfer,  
26 promotion or demotion of any officers and employees, the  
27 retention, use or remuneration of any advisors, counsel,  
28 auditors or consultants, the initiation of any legal action, the  
29 making of any contracts, agreements, notes or covenants, the  
30 approval of requisitions, purchase orders, investments and

1 reinvestments, and the adoption, amendment, revision or  
2 rescission of any rules and regulations, orders or other  
3 directives. The chairman, vice chairman or any other officer,  
4 committee or employee of the board may take actions by or on  
5 behalf of the board as authorized at least annually by a vote of  
6 four members of the board and subject always to the supervision  
7 and control of the board.

8 (e) Nonliability of members.--Members of the board shall not  
9 be liable personally on obligations of the authority, and the  
10 rights of creditors shall be solely against such authority. The  
11 authority, itself or by contract, shall defend board members,  
12 and the authority shall indemnify and hold harmless board  
13 members, whether currently employed by the authority or not,  
14 against and from any and all personal liabilities, actions,  
15 causes of action, and any and all claims made against them for  
16 whatever actions they perform within the scope of their duties  
17 as board members.

18 Section 7. Sovereign immunity.

19 It is hereby declared to be the intent of the General  
20 Assembly that the authority created pursuant to this act and its  
21 officers, officials and employees shall enjoy sovereign and  
22 official immunity, as provided in 1 Pa.C.S. § 2310 (relating to  
23 sovereign immunity reaffirmed; specific waiver), and remain  
24 immune from suit except as provided by and subject to the  
25 provisions of 42 Pa.C.S. §§ 8501 (relating to definitions)  
26 through 8528 (relating to limitations on damages).

27 Notwithstanding the provisions of 42 Pa.C.S. § 8525 (relating to  
28 legal assistance), the authority through its counsel shall  
29 defend actions brought against the authority and its officers  
30 and employees when acting within the scope of their official

1 duties.

2 Section 8. Moneys of authority.

3 (a) Paid to treasurer.--All moneys of the authority, from  
4 whatever source derived, shall be paid to the treasurer of the  
5 authority.

6 (b) Funds to be invested.--The board shall invest authority  
7 funds consistent with sound business practice.

8 (c) Investment program.--The board shall provide for an  
9 investment program subject to restrictions contained in this act  
10 and in any other applicable statute and any rules and  
11 regulations adopted by the board.

12 (d) Authorized types of investments.--Authorized types of  
13 investments for authority funds shall be:

14 (1) Direct obligations of or obligations guaranteed by  
15 the United States of America.

16 (2) Any bond, debenture, note, participation certificate  
17 or other similar obligation issued by any one or combination  
18 of the following agencies: Government National Mortgage  
19 Corporation, Federal Land Banks, Federal Home Loan Banks,  
20 Federal Intermediate Credit Banks, Banks for Cooperatives,  
21 Tennessee Valley Authority, United States Postal Service,  
22 Farmers Home Administration, the Student Loan Marketing  
23 Association and Export-Import Bank of the United States.

24 (3) Any bond, debenture, note, participation certificate  
25 or other similar obligation issued by the Federal National  
26 Mortgage Corporation to the extent such obligations are  
27 guaranteed by the Government National Mortgage Corporation or  
28 issued by any other Federal agency and backed by the full  
29 faith and credit of the United States of America.

30 (4) Deposits in interest-bearing time or demand

1 deposits, or certificates of deposit, fully insured by the  
2 Federal Deposit Insurance Corporation, or its successors, or  
3 the Federal Savings and Loan Insurance Corporation, or its  
4 successor, or fully secured by any of the obligations  
5 described above to the extent not so insured.

6 (5) Repurchase agreements relating to, or investment  
7 agreements secured by or providing for the acquisition of  
8 and, if applicable, resale of, obligations described in  
9 paragraphs (1) through (4) or obligations of Federal Home  
10 Loan Mortgage Corporation or Federal National Mortgage  
11 Association, with:

12 (i) banks or trust companies (which may include any  
13 banking entity or depository);

14 (ii) brokers or broker-dealers registered under the  
15 Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C.  
16 §§ 78a-78jj) acceptable to the authority; or

17 (iii) insurance companies rated A+ or better by  
18 Best's having a net capital and surplus of at least  
19 \$25,000,000 or certificates of deposit with such banks or  
20 trust companies fully secured as to principal and accrued  
21 interest by obligations described in paragraphs (1)  
22 through (4) deposited with or subject to the control of  
23 the authority.

24 (6) Money market deposit accounts of banks or trust  
25 companies having a net capital and surplus of at least  
26 \$25,000,000 (which may include any banking entity or  
27 depository).

28 (7) The description of authorized investments as set  
29 forth herein in paragraphs (5) and (6) shall only be met if  
30 the agreements referenced therein provide for the repayment

1 of the principal amount invested at an amount not less than  
2 that so invested. Whenever security is required as set forth  
3 herein in paragraphs (4) through (6), such security shall be  
4 deposited with the treasurer of the authority or be held by a  
5 trustee or agent satisfactory to the authority. Moneys of the  
6 authority shall be paid out on the warrant or other order of  
7 the chairman of the authority or of such other person or  
8 persons as the authority may authorize to execute such  
9 warrants or orders.

10 (e) Annual report to be filed; annual audits.--Every  
11 authority shall file an annual report with the Department of  
12 Insurance. The authority shall have its books, accounts and  
13 records audited annually in accordance with generally accepted  
14 auditing standards by an independent auditor who shall be a  
15 certified public accountant or competent public accountant, and  
16 a copy of his audit report shall be attached to and be made a  
17 part of the aforesaid annual report. A concise financial  
18 statement shall be published annually in the Pennsylvania  
19 Bulletin. The Philadelphia Automobile Insurance Authority will  
20 submit detailed information on claims, premiums, investment  
21 income and losses to the Department of Insurance in a  
22 computerized format so that the department may better represent  
23 the interests of policyholders in reviewing rate requests.

24 Section 9. Additional Commonwealth pledge.

25 The Commonwealth does hereby pledge to and agree with any  
26 person who, contracts an authority created pursuant to this act,  
27 that the Commonwealth will not limit or alter the rights and  
28 powers hereby vested in the authority or otherwise created by  
29 this act in any manner which impairs the obligations of the  
30 authority until all such obligations of the authority under such

1 lease or sublease are fully met and discharged.

2 Section 10. Exemption from taxation.

3       The effectuation of the authorized purposes of authorities  
4 created under this act shall and will be in all respects for the  
5 benefit of the people of this Commonwealth, for the increase of  
6 their commerce and prosperity and for the improvement of their  
7 health and living conditions; and, since authorities will, as  
8 public instrumentalities of the Commonwealth, be performing  
9 essential governmental functions in effectuating such purposes,  
10 such authorities shall not be required to pay any taxes or  
11 assessments upon any property acquired or used or permitted to  
12 be used by them.

13 Section 11. Effective date.

14       This act shall take effect immediately.