

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 712 Session of
1999INTRODUCED BY ROBBINS, STOUT, THOMPSON, CONTI AND WOZNIAK,
APRIL 8, 1999

AS AMENDED ON THIRD CONSIDERATION, APRIL 11, 2000

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," further providing for the purposes and powers of an
15 authority.

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

18 Section 1. Section 4A of the act of May 2, 1945 (P.L.382,
19 No.164), known as the Municipality Authorities Act of 1945, is
20 amended by adding a subclause to read:

21 Section 4. Purposes and Powers; General.--A. Every
22 Authority incorporated under this act shall be a body corporate
23 and politic, and shall be for the purpose of acquiring, holding,
24 constructing, improving, maintaining and operating, owning,

1 leasing, either in the capacity of lessor or lessee, projects of
2 the following kind and character and providing financing for
3 insurance reserves.

4 (a) The Authority shall be for the purpose of financing
5 working capital and of acquiring, holding, constructing,
6 financing, improving, maintaining and operating, owning,
7 leasing, either in the capacity of lessor or lessee, projects of
8 the kind and character described in the following subclauses and
9 for the purpose of providing financing for insurance reserves:

10 (1) equipment to be leased by an Authority to the
11 municipality or municipalities that organized it, or to any
12 municipality or school district located wholly or partially
13 within the boundaries of the municipality or municipalities that
14 organized it;

15 (2) buildings to be devoted wholly or partially for public
16 uses, including public school buildings, and facilities for the
17 conduct of judicial proceedings, and for revenue-producing
18 purposes;

19 (3) transportation, marketing, shopping, terminals, bridges,
20 tunnels, flood control projects, highways, parkways, traffic
21 distribution centers, parking spaces, airports, and all
22 facilities necessary or incident thereto;

23 (4) parks, recreation grounds and facilities;

24 (5) sewers, sewer systems or parts thereof;

25 (6) sewage treatment works, including works for treating and
26 disposing of industrial waste;

27 (7) facilities and equipment for the collection, removal or
28 disposal of ashes, garbage, rubbish and other refuse materials
29 by incineration, land fill or other methods;

30 (8) steam heating plants and distribution systems;

1 (9) incinerator plants;

2 (10) waterworks, water supply works, water distribution
3 systems;

4 (11) facilities to produce steam which is used by the
5 Authority or is sold on a contract basis for industrial or
6 similar use or on a sale-for-resale basis to one or more
7 entities authorized to sell steam to the public, provided that
8 such facilities have been approved by resolution or ordinance
9 adopted by the governing body of the municipality or
10 municipalities organizing such Authority and that the approval
11 does not obligate the taxing power of the municipality in any
12 way;

13 (12) facilities for generating surplus electric power which
14 are related to incinerator plants, dams, water supply works,
15 water distribution systems or sewage treatment plants pursuant,
16 where applicable, to section 3 of the Federal Power Act (16
17 U.S.C. § 796, relating to definitions) and section 210 of the
18 Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §
19 824a-3, relating to "Cogeneration and Small Power Production")
20 or Title IV of the Public Utility Regulatory Policies Act of
21 1978 (16 U.S.C. §§ 2701 to 2708, relating to "Small
22 Hydroelectric Power Projects"), provided that:

23 (i) electric power generated from the facilities shall be
24 sold or distributed only on a sale-for-resale basis to one or
25 more entities authorized to sell electric power to the public;

26 (ii) the facilities shall have been approved by resolution
27 or ordinance adopted by the governing body of the municipality
28 or municipalities organizing such Authority and the approval
29 does not obligate the taxing power of the municipality in any
30 way; and

1 (iii) the incinerator plants, dams, water supply works,
2 water distribution systems or sewage treatment plants will be
3 located within or contiguous with a county in which at least one
4 of the municipalities organizing such Authority is located,
5 except that this paragraph shall not apply to incinerator
6 plants, dams, water supply works, water distribution systems or
7 sewage treatment plants located in any county which have been or
8 will be constructed by or acquired by such Authority to perform
9 functions, the primary purposes of which are other than that of
10 generation of electric power, for which such Authority has been
11 organized;

12 (13) swimming pools, playgrounds, lakes, low head dams;

13 (14) hospitals, health centers;

14 (15) buildings and facilities for private, nonprofit,
15 nonsectarian secondary schools, colleges and universities,
16 State-related universities and community colleges, which are
17 determined by the Authority to be eligible educational
18 institutions provided that such buildings and facilities shall
19 have been approved by resolution or ordinance adopted by the
20 governing body of the municipality or municipalities organizing
21 the Authority and that the approval does not obligate the taxing
22 power of the governing body in any way;

23 (16) motor buses for public use, when such motor buses are
24 to be used within any municipality, subways; and

25 (17) industrial development projects, including but not
26 limited to projects to retain or develop existing industries and
27 the development of new industries, the development and
28 administration of business improvements and administrative
29 services related thereto.

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

1 (1) An Authority created by a school district or school
2 districts shall have the power only to acquire, hold, construct,
3 improve, maintain, operate and lease public school buildings and
4 other school projects acquired, constructed or improved for
5 public school purposes.

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

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

1 (ii) for industrial development projects if the Authority
2 does not develop industrial projects which will compete with
3 existing industries; nor

4 (iii) for Authorities created for the purpose of providing
5 business improvements and administrative services if each
6 municipality organizing an Authority for such a project shall
7 declare by resolution or ordinance that it is desirable for the
8 entire local government unit to improve the business district;
9 nor

10 (iv) to hospital projects or health centers to be leased to,
11 or financed with loans to, public hospitals, nonprofit
12 corporation health centers or nonprofit hospital corporations
13 serving the public or to school building projects and facilities
14 to be leased to, or financed with loans to, private, nonprofit,
15 nonsectarian secondary schools, colleges and universities,
16 State-related universities and community colleges, or to
17 facilities, limited as described above, to produce steam or to
18 generate electric power, if each municipality organizing an
19 Authority for such a project shall declare by resolution or
20 ordinance that it is desirable for the health, safety and
21 welfare of the people in the area served by such facilities to
22 have such facilities provided by, or financed through an
23 Authority; nor

24 (v) to provide financing for insurance reserves, if each
25 municipality or Authority intending to use any proceeds thereof
26 shall declare by resolution or ordinance that it is desirable
27 for the health, safety and welfare of the people in such local
28 government unit or served by such Authority; nor

29 (vi) to projects for financing working capital.

30 (3) It is the intent of this act, in specifying and defining

1 the authorized purposes and projects of an Authority, to permit
2 the Authority to benefit the people of this Commonwealth by,
3 among other things, increasing their commerce, health, safety
4 and prosperity, while not unnecessarily burdening or interfering
5 with any municipality which has not incorporated or joined that
6 Authority. Therefore, notwithstanding any other provisions of
7 this act, an Authority shall not have as its purpose and shall
8 not undertake as a project, solely for revenue-producing
9 purposes, the acquiring of buildings, facilities or tracts of
10 land which, in the case of an Authority incorporated or joined
11 by a county or counties, are located either within or outside
12 the boundaries of the county or counties and, in the case of all
13 other Authorities, are located outside the boundaries of the
14 municipality or municipalities, ~~other than counties,~~ that <—
15 incorporated or joined the Authority, unless either:

16 (i) the governing body of each municipality in which the
17 project will be undertaken has, by resolution, evidenced its
18 approval; or

19 (ii) in cases where the property acquired is not subject to
20 tax abatement, the Authority covenants and agrees with each
21 municipality in which the Authority will acquire real property
22 as part of the project either to make annual payments in lieu of
23 real estate taxes and special assessments for amounts and time
24 periods specified in the agreement or to pay annually the amount
25 of real estate taxes and special assessments which would be
26 payable if the real property so acquired were fully taxable and
27 subject to special assessments.

28 (c) The municipality or municipalities organizing such an
29 Authority may, in the resolution or ordinance signifying their
30 intention so to do, or from time to time by subsequent

1 resolution or ordinance, specify the project or projects to be
2 undertaken by the said Authority, and no other projects shall be
3 undertaken by the said Authority than those so specified. If the
4 municipal authorities organizing an Authority fail to specify
5 the project or projects to be undertaken, then the Authority
6 shall be deemed to have all the powers granted by this act.

7 * * *

8 Section 2. This act shall take effect in 60 days.