

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 581 Session of
2007

INTRODUCED BY ORIE, FONTANA, PIPPY, WOZNIAK, WAUGH, BOSCOLA AND
RAFFERTY, MARCH 20, 2007

REFERRED TO LOCAL GOVERNMENT, MARCH 20, 2007

AN ACT

1 Amending Title 53 (Municipalities Generally) of the Pennsylvania
2 Consolidated Statutes, further providing, in relation to
3 municipal authorities, for method of incorporation, for
4 limitations, for prohibition, for governing body and for
5 money of authorities.

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

8 Section 1. Section 5603(c) of Title 53 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 5603. Method of incorporation.

11 * * *

12 (c) Filing articles of incorporation.--On or before the day
13 specified in the notice required under subsection (b), the
14 municipal authorities shall file with the Secretary of the
15 Commonwealth articles of incorporation together with proof of
16 publication of the notice required under subsection (b). The
17 articles of incorporation shall set forth:

18 (1) The name of the authority.

19 (2) A statement that the authority is formed under this

chapter.

(3) A statement whether any other authority has been organized under this chapter or under the former act of June 28, 1935 (P.L.463, No.191), entitled "An act providing for the incorporation, as bodies corporate and politic, of ["Authorities"] 'Authorities' for municipalities, counties, and townships; defining the same; prescribing the rights, powers, and duties of such Authorities; authorizing such Authorities to acquire, construct, improve, maintain, and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and for other purposes," or the former act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, and is in existence in or for the incorporating municipality or municipalities. If any one or more of the municipalities have already joined with other municipalities not composing the same group in organizing a joint authority, the application shall set forth the name of that authority together with the names of the municipalities joining in it.

(4) The name of the incorporating municipality or municipalities together with the names and addresses of its municipal authorities.

(5) The names, addresses and term of office of the first members of the board of the authority.

(6) In the case of authorities created for the purpose of making business improvements or providing administrative

services, if appropriate, a statement that the municipality or municipalities have retained the right which exists under this chapter to approve any plan of the authority.

(7) The debt limitations which shall apply to the authority.

(8) The term of existence of the authority prior to which the incorporating municipalities must reenact an ordinance to continue its existence.

~~[(7)]~~ (9) Any other matter which shall be determined in accordance with the provisions of this chapter.

* * *

Section 2. Section 5607(b) and (e) of Title 53 are amended to read:

§ 5607. Purposes and powers.

* * *

(b) Limitations.--This section is subject to the following limitations:

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

(2) The purpose and intent of this chapter being to benefit the people of the Commonwealth by, among other things, increasing their commerce, health, safety and prosperity and not to unnecessarily burden or interfere with existing business by the establishment of competitive enterprises, none of the powers granted by this chapter shall be exercised in the construction, financing, improvement, maintenance, extension or operation of any project or

1 projects or providing financing for insurance reserves which
2 in whole or in part shall duplicate or compete with existing
3 enterprises serving substantially the same purposes. This
4 limitation shall not apply to the exercise of the powers
5 granted under this section:

6 (i) for facilities and equipment for the collection,
7 removal or disposal of ashes, garbage, rubbish and other
8 refuse materials by incineration, landfill or other
9 methods if each municipality organizing or intending to
10 use the facilities of an authority having such powers
11 shall declare by resolution or ordinance that it is
12 desirable for the health and safety of the people of such
13 municipality that it use the facilities of the authority
14 and state if any contract between such municipality and
15 any other person, firm or corporation for the collection,
16 removal or disposal of ashes, garbage, rubbish and other
17 refuse material has by its terms expired or is terminable
18 at the option of the municipality or will expire within
19 six months from the date such ordinance becomes
20 effective;

21 (ii) for industrial development projects if the
22 authority does not develop industrial projects which will
23 compete with existing industries;

24 (iii) for authorities created for the purpose of
25 providing business improvements and administrative
26 services if each municipality organizing an authority for
27 such a project shall declare by resolution or ordinance
28 that it is desirable for the entire local government unit
29 to improve the business district;

30 (iv) to hospital projects or health centers to be

1 leased to or financed with loans to public hospitals,
2 nonprofit corporation health centers or nonprofit
3 hospital corporations serving the public or to school
4 building projects and facilities to be leased to or
5 financed with loans to private, nonprofit, nonsectarian
6 secondary schools, colleges and universities, State-
7 related universities and community colleges or to
8 facilities, as limited under the provisions of this
9 section, to produce steam or to generate electric power
10 if each municipality organizing an authority for such a
11 project shall declare by resolution or ordinance that it
12 is desirable for the health, safety and welfare of the
13 people in the area served by such facilities to have such
14 facilities provided by or financed through an authority;

15 (v) to provide financing for insurance reserves if
16 each municipality or authority intending to use any
17 proceeds thereof shall declare by resolution or ordinance
18 that it is desirable for the health, safety and welfare
19 of the people in such local government unit or served by
20 such authority; or

21 (vi) to projects for financing working capital.

22 (3) It is the intent of this chapter in specifying and
23 defining the authorized purposes and projects of an authority
24 to permit the authority to benefit the people of this
25 Commonwealth by, among other things, increasing their
26 commerce, health, safety and prosperity while not
27 unnecessarily burdening or interfering with any municipality
28 which has not incorporated or joined that authority.

29 Therefore, notwithstanding any other provisions of this
30 chapter, an authority shall not have as its purpose and shall

1 not undertake as a project solely for revenue-producing
2 purposes the acquiring of buildings, facilities or tracts of
3 land which in the case of an authority incorporated or joined
4 by a county or counties are located either within or outside
5 the boundaries of the county or counties and in the case of
6 all other authorities are located outside the boundaries of
7 the municipality or municipalities that incorporated or
8 joined the authority unless either:

9 (i) the governing body of each municipality in which
10 the project will be undertaken has by resolution
11 evidenced its approval; or

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

22 (4) Unless otherwise expressly provided by law, all
23 projects and bonds of an authority shall be subject to open
24 competitive bidding.

25 * * *

26 (e) [Prohibition] Prohibitions.--

27 (1) An authority may not pledge the credit or taxing
28 power of the Commonwealth or its political subdivision.

29 (2) The obligations of an authority are not obligations
30 of the Commonwealth or its political subdivision.

1 (3) Neither the Commonwealth nor a political subdivision
2 shall be liable for the payment of principal of or interest
3 on obligations of an authority.

4 (4) No authority may borrow to meet its own operating
5 expenses.

6 * * *

7 Section 3. Section 5610(a) of Title 53 is amended and the
8 section is amended by adding subsections to read:

9 § 5610. Governing body.

10 (a) Board.--The powers of each authority shall be exercised
11 by a board composed as follows:

12 (1) If the authority is incorporated by one
13 municipality, the board shall consist of a number of members,
14 not less than five, as enumerated in the articles of
15 incorporation. The governing body of the municipality shall
16 appoint the members of the board, whose terms of office shall
17 commence on the effective date of their appointment. One
18 member shall serve for one year, one for two years, one for
19 three years, one for four years and one for five years
20 commencing with the first Monday in January next succeeding
21 the date of incorporation or amendment. If there are more
22 than five members of the board, their terms shall be
23 staggered in a similar manner for terms of one to five years
24 from the first Monday in January next succeeding. Thereafter,
25 whenever a vacancy has occurred by reason of the expiration
26 of the term of any member, the governing body shall appoint a
27 member of the board for a term of five years from the date of
28 expiration of the prior term to succeed the member whose term
29 has expired.

30 (2) If the authority is incorporated by two or more

1 municipalities, the board shall consist of a number of
2 members at least equal to the number of municipalities
3 incorporating the authority, but in no event less than five.
4 When one or more additional municipalities join an existing
5 authority, each of the joining municipalities shall have
6 similar membership on the board as the municipalities then
7 members of the authority and the joining municipalities may
8 determine by appropriate resolutions. The members of the
9 board of a joint authority shall each be appointed by the
10 governing body of the incorporating or joining municipality
11 he represents, and their terms of office shall commence on
12 the effective date of their appointment. One member shall
13 serve for one year, one for two years, one for three years,
14 one for four years and one for five years from the first
15 Monday in January next succeeding the date of incorporation,
16 amendment or joinder, and if there are more than five members
17 of the board, their terms shall be staggered in a similar
18 manner for terms of from one to five years commencing with
19 the first Monday in January next succeeding. Thereafter,
20 whenever a vacancy has occurred by reason of the expiration
21 of the term of any member, the governing body of the
22 municipality which has the power of appointment shall appoint
23 a member of the board for a term of five years from the date
24 of expiration of the prior term.

25 (3) Prohibitions on membership:

26 (i) No member shall be appointed without a majority
27 vote of the municipal governing body.

28 (ii) No member may be an elected official or an
29 employee of the appointing municipality.

30 (iii) Each member must possess qualifications

1 relevant to the purpose of the authority.

2 (iv) The board shall not be composed of entirely one
3 political party.

4 (v) No member can serve on more than one authority
5 formed by the same municipality.

6 * * *

7 (g) Conflict of interest.--No member of the authority or
8 officer or employee of the authority may directly or indirectly
9 be a party to or be interested in any contract or agreement with
10 the authority for any matter, cause or thing if the contract or
11 agreement establishes liability against or indebtedness of the
12 authority. Any contract or agreement made in violation of this
13 subsection is void, and no action may be maintained on the
14 agreement against the authority.

15 (h) Open meetings.--The governing body of an authority shall
16 be construed as an agency for purposes of and as defined under
17 65 Pa.C.S. § 703 (relating to definitions), and its meetings
18 shall be subject to the provisions of 65 Pa.C.S. Ch. 7 (relating
19 to open meetings).

20 Section 4. Section 5612 of Title 53 is amended by adding a
21 subsection to read:

22 § 5612. Money of authority.

23 * * *

24 (d) Open records.--An authority shall be construed as an
25 agency for the purposes of and as defined under the act of June
26 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know
27 Law, and the books, accounts and records of the authority shall
28 be construed as public records for purposes of and as defined
29 under that act and shall be accessible for inspection and
30 duplication by a requester in accordance with that act.

1 Section 5. As to already existing authorities, nothing in
2 this act shall impair or alter existing bonds or contractual
3 agreements. The provisions of this act with regard to the
4 qualifications of members of an authority governing board shall
5 be phased in as each member's term expires or a vacancy occurs.
6 Section 6. This act shall take effect in 60 days.