

STATE PUBLIC SCHOOL BUILDING AUTHORITY ACT
Act of Jul. 5, 1947, P.L. 1217, No. 498
AN ACT

Cl. 64

To promote the education and educational facilities of the people of the Commonwealth of Pennsylvania; creating a State Public School Building Authority as a body corporate and politic with power to construct, improve and operate projects and to lease the same and to fix and collect fees, rentals and charges for the use thereof; authorizing school districts to enter into contracts to lease; authorizing and regulating the issuance of bonds by said Authority; and providing for the payment of such bonds and the rights of the holders thereof; granting the right of eminent domain; increasing the powers and duties of the Department of Public Instruction; and providing that no debt of the Commonwealth shall be incurred in the exercise of any of eminent domain; increasing the powers and duties of the Department of Public Instruction; and providing that no debt of the Commonwealth shall be incurred in the exercise of any of the powers granted under this act; and making an appropriation to said Authority to pay expenses incident to its formation.

Compiler's Note: Section 1 of Act 165 of 1970 provided that the limits heretofore imposed by Act 498 upon the rates of interest and interest costs permitted to be paid upon bonds, obligations and indebtedness issued by the Commonwealth or its agencies or instrumentalities or authorities, and by local political subdivisions or their agencies or authorities, are hereby removed for such bonds, obligations or indebtedness.

Compiler's Note: Section 5(b)(1) of Act 75 of 1969 provided that Act 34 is repealed insofar as it provides or authorizes the incurring of Commonwealth debt subject to the limitation set forth in clause (4), subsection (a) of section 7 of Article VIII of the Constitution of Pennsylvania or is otherwise inconsistent with Act 75.

Compiler's Note: Section 2(a) of Act 577 of 1965 provided that Act 34 is repealed insofar as it authorizes the contracting of insurance for any department, board, agency, commission or other authority of this Commonwealth through an insurance broker other than the Secretary of Property and Supplies.

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

Section 1. Short Title.--This act shall be known and may be cited as the "State Public School Building Authority Act."

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

(a) "Authority" shall mean the body politic and corporate created by this act;

(b) "Department" shall mean the Department of Public Instruction;

(c) "Project" shall mean any structure, facility or undertaking which the Authority is authorized to construct, finance, improve, install, maintain or operate under the provisions of this act; ((c) amended Mar. 23, 1984, P.L.138, No.26)

(d) "Bonds" shall mean and include the notes, bonds, and other evidences of indebtedness or obligations, which the Authority is authorized to issue pursuant to this act;

(e) "Construction" shall mean and include acquisition and construction, and the term "to construct" shall mean and include to acquire and to construct in such manner as may be deemed desirable;

(f) "Improvement" shall mean and include extension, enlargement and improvement, and the term "to improve" shall mean and include to extend, to enlarge and to improve in such manner as may be deemed desirable.

(g) "School building" shall mean, but shall not be limited to, any structure used or useful for schools and playgrounds, including facilities for physical education, and any community college building; ((g) amended July 18, 1967, P.L.175, No.50)

(g.1) "Local sponsor" shall mean a school district or a county, municipality, township or a county board of school directors, or any combination of school districts, counties, municipalities, townships or county boards of school directors which participate in the establishment and operation of a community college; ((g.1) added July 18, 1967, P.L.175, No.50)

(g.2) "Community college" shall mean a public college or technical institute as established under the act of August 24, 1963 (P.L.1132), known as the "Community College Act of 1963"; ((g.2) added July 18, 1967, P.L.175, No.50)

(g.3) "Board of trustees" shall mean the board of trustees of a community college; ((g.3) added July 18, 1967, P.L.175, No.50)

(g.4) "Community college building" shall mean any facility or structure used or useful for a community college, the furnishings and equipment thereof and any land or interest in land related thereto; ((g.4) added July 18, 1967, P.L.175, No.50)

(h) "Cost of a project" shall include, but shall not be limited to, the cost of all real estate, properties, rights and easements acquired, the cost of construction of school buildings and the furnishing and equipment thereof, all financing charges, interest prior to and during construction, engineering, architects' and legal expenses, including the cost of plans, specifications and surveys, estimates of costs and revenues, administrative expenses, and such other expenses as are necessary or incident to the financing herein authorized or to determine the feasibility or practicability of any project and the condemnation of property necessary for use of, or in connection with, any school building. ((h) added Apr. 20, 1949, P.L.636, No.142)

(i) "Present Worth Method" shall mean the semiannual rate, compounded semiannually, necessary to discount to present worth as of the date of the bonds or notes the amounts payable on each interest payment date and on each stated maturity or earlier mandatory redemption date so that the aggregate of such amounts will equal the purchase price offered therefor exclusive of interest accrued to the date of delivery. The present worth interest cost shall be stated in terms of an annual percentage rate and shall be that rate of interest which is twice the semiannual rate so ascertained. ((i) added Dec. 17, 1982, P.L.1372, No.314)

(j) "Financing" or "to finance" means and includes the lending or providing of funds to a school district or board of trustees of a community college for payment of the cost of a project. ((j) added Mar. 23, 1984, P.L.138, No.26)

Section 3. State Public School Building Authority.--The Governor, the State Treasurer, the Auditor General, the Superintendent of Public Instruction, the Secretary of Property and Supplies, the President pro tempore of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, the minority leader of the House of Representatives, and their respective successors in office are hereby created a body corporate and politic, constituting a public corporation and governmental instrumentality by the name of the "State Public School Building Authority." The President pro tempore of the Senate and minority leader of the Senate and the Speaker of the House of Representatives and minority leader of the House of Representatives may designate any member of the Senate or House, respectively, to act in their stead to serve at the discretion of the respective President pro tempore or minority leader and Speaker of the House of Representatives or minority leader. Said members of the Authority shall be entitled to no compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

The President pro tempore of the Senate and the Speaker of the House of Representatives, the minority leader of the Senate and the minority leader of the House of Representatives, shall continue as members of the Authority until their respective successors in office assume such office, regardless of whether or not they shall have ceased to be members of the Senate or the House of Representatives. The members of the Authority may authorize by written proxy or authorization, a personal deputy to appear and act for them at a meeting and for the purposes specified in such written proxy or authorization, provided that a separate written authorization or proxy shall be required for each separate meeting.

(3 amended Mar. 23, 1984, P.L.138, No.26)

Section 4. Purposes and General Powers.--The Authority is created for the purpose of acquiring, financing, refinancing, constructing, improving, furnishing, equipping, maintaining and operating buildings for public school and educational broadcasting facilities for use as a part of the public school system of the Commonwealth of Pennsylvania under the jurisdiction of the Department of Education. The Authority also shall have for its purpose the acquiring, financing, refinancing, construction, improvement, furnishing, equipping, maintenance and operation of community college buildings. (Par. amended Dec. 17, 1982, P.L.1372, No.314)

The Authority is hereby granted and shall have and may exercise all the powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights and powers:

- (a) To have perpetual existence as a corporation;
- (b) To sue and be sued, implead and be impleaded, complain and defend, in all courts;
- (c) To adopt, use and alter at will a corporate seal;
- (d) To acquire, purchase, hold, lease as lessee, and use any property real, personal or mixed, tangible or intangible, or any interest therein, (necessary or desirable) for carrying out the purposes of the Authority, and to sell, lease as lessor, transfer and dispose of any property or any interest therein at any time acquired by it;
 - (d.1) To finance projects by making loans to any eligible school district or board of trustees of a community college, which loans may be evidenced by and secured as may be provided in loan agreements, mortgages, security agreements or any other contracts, instruments or agreements, which may contain such provisions as the Authority shall determine necessary or desirable for the security or protection of the Authority or its bondholders. All such provisions shall be a part of the contract with the holders of the bonds of the Authority issued with respect to such project. ((d.1) added Mar. 23, 1984, P.L.138, No.26)
- (e) To acquire by purchase, lease or otherwise, and to construct, improve, maintain, repair and operate projects;
- (f) To make by-laws for the management and regulations of its affairs;
- (g) To appoint officers, agents, employes and servants, to prescribe their duties and to fix their compensation;
- (h) To fix, alter, charge and collect rentals, and other charges in respect of the facilities financed or for the services rendered by the Authority or projects thereof, at reasonable rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, not provided for by appropriation by the Commonwealth, or otherwise, the acquiring, financing, refinancing, construction, improvement, repair, equipping and furnishing, maintenance and operation of projects and any facilities and properties, the payment of the principal of, and interest on, any obligation, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations; ((h) amended Mar. 23, 1984, P.L.138, No.26)
- (i) To borrow money for the purpose of financing or refinancing the cost of any project, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations (hereinafter called "bonds"), of the Authority, and to secure the payment of such bonds, or any part thereof, by pledge or deed of trust of all, or any of its

revenues, rentals and receipts, and to make such agreements with the purchasers or holders of such bonds, or with others in connection with any such bonds, whether issued or to be issued as the Authority shall deem advisable, and in general to provide for the security for said bonds and the rights of the holders thereof; ((i) amended Dec. 17, 1982, P.L.1372, No.314)

(j) To make contracts of every name and nature, and to execute all instruments necessary or convenient for the carrying on of its business;

(j.1) To enter into contracts with the board of school directors of any school district, the members of which school board are members of any nonprofit community corporation having a Federal Communications Commission license for educational broadcasting stations, for the purpose of acquiring, financing, refinancing, constructing, improving, furnishing, equipping, maintaining and operating these facilities as a part of the public school system of the Commonwealth of Pennsylvania. ((j.1) amended Dec. 17, 1982, P.L.1372, No.314)

(k) Without limitation of the foregoing, to borrow money, and accept grants from, and to enter into contracts, leases or other transaction with, any Federal agency;

(l) To have the power of eminent domain;

(m) To pledge, hypothecate or otherwise encumber, all or any of the revenues or receipts of the Authority as security for all, or any of, the obligations of the Authority;

(n) To do all acts and things necessary or convenient to carry out the powers granted to it by this act or any other acts; ((n) amended Apr. 20, 1949, P.L.636, No.142)

Provided, however, That the Authority shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth or any of its school districts or local sponsors or boards of trustees of community colleges, nor shall any of its obligations or debts be deemed to be obligations of the Commonwealth, or any of its school districts or local sponsors or boards of trustees of any community college, nor shall the Commonwealth or any of its school districts or local sponsors or boards of trustees of any community college be liable for the payment of principal or interest on such obligations; (Par. amended July 18, 1967, P.L.175, No.50)

Provided, further, That all contracts between the Authority and school districts shall be conditioned upon the preparation of general plans for the orderly development of improved attendance areas, and administrative units and for the improved housing of the public schools of the Commonwealth. These plans shall be prepared cooperatively by local, county and State school authorities, in accordance with standards and regulations prescribed by the Department. The Department shall have authority and its duty shall be to review all construction projects to determine:

(1) The extent to which they conform to general county and State plans;

(2) The amount of improvement to be brought about in attendance areas and administrative units;

(3) The adequacy of the proposed building with respect to educational design, location, usefulness for community activities, safety, comfort and convenience;

(4) The ability of the local school district or districts to amortize the cost of the project, and to defray the cost of operation and maintenance. ((4) amended Apr. 20, 1949, P.L.636, No.142)

No contract shall be executed between the Authority and school districts without the specific written approval of the Department.

Provided further, That all contracts between the Authority and local sponsors and/or boards of trustees of community colleges and/or the Department of Public Instruction shall be conditioned upon any approval of the State Board of Education or the Department of Public Instruction required by the act of August 24, 1963 (P.L.1132), known as the "Community College Act of 1963." (Par. added July 18, 1967, P.L.175, No.50)

Section 5. Contracts to Lease and Leases from Authority.--Any school district or districts within the Commonwealth shall have power and authority, with the approval of the Superintendent of Public Instruction, to enter into contracts with the Authority to lease as lessee from the Authority any school building, and the furnishings and equipment thereof constructed or improved by the Authority, for a term, with respect to each not exceeding forty (40) years, at such rental or rentals as may be determined by the Authority, and upon the execution of a contract or contracts for the construction of, or during the period of construction of, or upon the completion of said school building and the furnishings and equipment thereof, the school district or districts shall have power and authority, with the approval of the Superintendent of Public Instruction, to lease as lessee any school building and the furnishings and equipment thereof, for a term, with respect to each not exceeding forty (40) years, at such rental or rentals as may be determined by the Authority.

The board of trustees of a community college, with the approval of the department, and the department, with the approval of the Governor, each shall have the power and authority to enter into contracts with the Authority to lease, as lessee, from the Authority any community college building constructed, improved, maintained and operated by the Authority, for a term, with respect to each, not exceeding thirty (30) years, at such rental or rentals as may be determined by the Authority, and upon execution of a contract or contracts for the construction of or during the period of construction of, or upon the completion of said community college building, the board of trustees or the department shall have power and authority, with further approval of the department in the case of the board of trustees, or the Governor, in the case of the department, to lease, as lessee, from the Authority any such community college building for a term with respect to each not exceeding thirty (30) years, at such rental or rentals as may be determined by the Authority.

When any community college building is leased by the Authority to the department, the department shall have power and authority, with the approval of the Governor, to sublease such community college building to the board of trustees of the community college for which said community college building was constructed or improved, upon such terms and conditions as shall be agreed to, and the board of trustees of a community college, with the approval of the department, shall have the power and authority to sublease, as sublessee, from the department, any community college building leased by the Authority to the department.

There shall be included in the annual budget of a community college as prepared by each board of trustees which has entered into such a lease or sublease an amount equal to the annual amount of such rentals. Rentals payable by the department shall be payable out of current revenues of the Commonwealth of

Pennsylvania; in pursuance thereof, the subleases from the department shall provide that rental payments thereunder shall be paid directly to the Authority or its assigns. Rentals payable to the department or its assigns pursuant to subleases, as provided above, shall be considered capital expenses for the purpose of reimbursement or payment by the Commonwealth as provided in the act of August 24, 1963 (P.L.1132), known as the "Community College Act of 1963."

In all cases where the board of trustees of a community college fails to pay or provide for the payment of any rental or rentals due the department or its assigns for any period in accordance with the terms of any sublease of a community college building entered into between the department, as sublessor, and the board of trustees, as sublessee, the State Superintendent of Public Instruction shall notify such board of trustees and local sponsor of its obligation and shall withhold out of any State appropriation that may be due to such community college on behalf of the local sponsor an amount equal to the amount of rental or rentals owing by such board of trustees to the department or its assigns, and shall apply such amount toward such rental or rentals due the department or its assigns.

Any lessee or sublessee of a community college building, as provided herein, shall have the power and authority to pay for operation and maintenance of such community college building.

(5 amended July 18, 1967, P.L.175, No.50)

Section 5.1. Loan Contracts with the Authority.--Any school district or districts, or any board of trustees of a community college within the Commonwealth, shall have power and authority, with the approval of the department, when necessary, to enter into loan agreements, mortgages, security agreements or any other loan contracts with the Authority for a term not exceeding forty (40) years in the case of a school district and thirty (30) years in the case of a community college and providing for the repayment of any such loans at such times and in such amounts as may be determined by the Authority. There shall be included in the annual budget of each school district or community college board of trustees which has entered into a loan contract with the Authority an amount equal to the amount due annually to the Authority under such loan contract and such amounts shall be payable out of current revenues of the school district or board of trustees of a community college. Amounts payable under such loan contracts shall be considered capital expenses for the purpose of reimbursement or payment by the Commonwealth to school districts or boards of trustees of community colleges. In all cases where a school district or the board of trustees of a community college fails to pay or provide for payment of any amount due the Authority or its assigns for any period in accordance with the terms of any loan contract entered into between the Authority and a school district or board of trustees of a community college, the Secretary of Education shall notify such school district or board of trustees of a community college of its obligation and shall withhold out of any State appropriation that may be due such school district or board of trustees of a community college an amount equal to the amount of any such payment due and owing and shall apply such amount to the payment or payments due to the Authority or its assigns.

(5.1 added Mar. 23, 1984, P.L.138, No.26)

Section 6. Purposes and Powers; Bonds.--(a) The bonds of the Authority, hereinabove referred to and authorized to be issued, shall be authorized by resolution of the board, and shall be of such series, bear such date or dates, mature at

such time or times, not exceeding forty (40) years from their respective dates, bear interest at such rate or rates payable semi-annually, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment, and at such place or places, be subject to such terms of redemption, at such prices not exceeding one hundred five per centum of the principal amount thereof, and be entitled to such priorities in the revenues, rentals or receipts of the Authority as such resolution or resolutions may provide. The interest on bonds issued shall be paid during the term for which the bonds were issued. The bonds shall be signed by such officers, either manually or by facsimile as the Authority shall determine, and shall have imprinted thereon a facsimile of the corporate seal, attested by the facsimile signature of the secretary and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the Authority, all as may be prescribed in such resolution or resolutions. Any such bonds may be issued and delivered notwithstanding that any of the aforesaid persons signing such bonds or whose facsimile signature shall be upon the bonds or coupons shall have ceased to hold their respective offices at the time when such bonds shall actually be delivered.

Said bonds shall be sold as the Authority shall determine, at private sale or to the highest responsible bidder or bidders after public notice by advertisement; the notice shall contain a general description of the bonds, the manner, place and time of the sale, or the time limit for the receipt of proposals, the name of the officer to whom bids or proposals shall be delivered, and a statement of the terms and conditions of sale, which shall include a statement of the highest net interest cost or highest interest cost computed by the Present Worth Method, whichever is specified, acceptable to the Authority. For the purposes of this section, net interest cost shall be determined by ascertaining the total amount of interest payable with respect to the bonds, computed from the date of the bonds to the stated maturity dates thereof, plus the amount of any discount from the principal amount of the bond or less the amount of any premium in excess of the principal amount of the bonds. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of such bonds, and may contain such terms and conditions as the Authority may determine.

Such bonds are hereby made securities in which all officers of the State and its political subdivisions and municipal officers and administrative departments, boards and commissions of the Commonwealth, all banks, bankers, savings banks, trust companies, saving and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, and all other persons whatsoever who now or may hereafter be authorized to invest in bonds or other obligations of the Commonwealth, may properly and legally invest any funds, including capital, belonging to them or within their control, and said bonds or other securities or obligations are hereby made securities which may properly and legally be deposited with, and received by, any State or municipal officers or agency of the Commonwealth for any purpose for which the deposit of bonds or other

obligations of the Commonwealth is now or may hereafter be authorized by law.

(b) Any resolution or resolutions authorizing any bonds may contain provisions which shall be part of the contract with the holders thereof as to (a) pledging the full faith and credit of the Authority (but not of the Commonwealth or any county or other political subdivision thereof) for such obligations, or restricting the same to all or any of the revenues, rentals or receipts of the Authority from all or any projects or properties, (b) the construction, improvement, financing, operation, extension, enlargement, maintenance and repair, of any project or projects, and the duties of the Authority with reference thereto, (c) the terms and provisions of the bonds, (d) limitations on the purposes to which the proceeds of the bonds, then or thereafter to be issued, or of any loan or grant by the United States may be applied, (e) the rate of rentals and other charges for use of the facilities of, or for the services rendered by, the Authority, including limitations upon the power of the Authority to modify any leases or other agreements pursuant to which any rentals or other charges are payable, (f) the setting aside of reserves or sinking funds and the regulation and disposition thereof, (g) limitations on the issuance of additional bonds, (h) the terms and provisions of any deed or trust or indenture securing the bonds, or under which the same may be issued, and (i) any other or additional agreements with the holders of the bonds;

(c) The Authority may enter into any deeds of trust, indentures or other agreements with any bank or trust company, or other person or persons in the United States having power to enter into the same, including any Federal agency, as security for such bonds, and may assign and pledge all or any of the revenues, rentals or receipts of the Authority thereunder. Such deed of trust, indenture or other agreement may contain such provisions as may be customary in such instruments, or as the Authority may authorize, including (but without limitation) provisions as to (i) the construction, improvement, financing, operation, maintenance and repair of any project or projects, and the duties of the Authority with reference thereto, (ii) the application of funds and the safeguarding of funds on hand or on deposit, (iii) the rights and remedies of said trustee and the holders of the bonds (which may include restrictions upon the individual right of action of such bondholders), and (iv) the terms and provisions of the bonds, or the resolutions authorizing the issuance of the same.

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

(6 amended Mar. 23, 1984, P.L.138, No.26)

Section 6.1. Refunding Bonds.--The Authority is hereby authorized to provide, by resolution of the board, for the issuance of refunding bonds for the purpose of refunding any bonds of the Authority issued under the provisions of this act and then outstanding, either by voluntary exchange with the holders of such outstanding bonds or to provide funds to redeem and retire such outstanding bonds, with accrued interest, and any premium payable thereon at maturity or at any call date. The issuance of such refunding bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the Authority in respect to the same, shall be governed by the foregoing provisions of this act in so far as the same may be applicable. Refunding bonds may be issued by the Authority to refund bonds originally issued or to refund

bonds of the Authority previously issued for refunding purposes. Notwithstanding the provisions of section 6(a) of this act, refunding bonds for bond issues closed by the Authority during calendar year 1975 may be sold at private sale, without advertisement or competitive bidding, for such price or prices as the Authority shall determine.

(6.1 amended Dec. 9, 1977, P.L.273, No.88)

Section 6.2. Term Bonds.--(6.2 repealed Dec. 17, 1982, P.L.1372, No.314)

Section 7. Remedies of Bondholders.--(a) The rights and the remedies herein conferred upon, or granted to the bondholders, shall be in addition to, and not in limitation of, any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds, or by any deed of trust, indenture or other agreement under which the same may be issued or secured. In the event that the Authority shall default in the payment of principal of, or interest on, any of the bonds after said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty (30) days, or in the event that the Authority shall fail or refuse to comply with the provisions of this act, or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the recorder of deeds of the county, and proved or acknowledged in the same manner as a deed to be recorded may (except as such right may be limited under the provisions of any deed of trust, indenture or other agreement as aforesaid), appoint a trustee to represent the bondholders for the purposes herein provided. Such trustee and any trustee under any deed of trust, indenture or other agreement may, and upon written request of the holders of twenty-five per centum (or such other percentage as may be specified in any deed of trust, indenture or other agreement aforesaid) in principal amount of the bonds then outstanding, shall in his or its own name:

(1) By mandamus or other suit, action or proceeding at law or in equity enforce all rights of the bondholders, including the right to require the Authority to collect rates, rentals and other charges adequate to carry out any agreement as to, or pledge of the revenues or receipts of, the Authority, and to require the Authority to carry out any other agreements with or for the benefit of the bondholders, and to perform its and their duties under this act;

(2) Bring suit upon the bonds;

(3) By action or suit in equity require the Authority to account as if it were the trustee of an express trust for the bondholders;

(4) By action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders;

(5) By notice in writing to the Authority declare all bonds due and payable, and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum (or such other percentage as may be specified in any deed of trust, indenture or other agreement aforesaid) of the principal amount of the bonds then outstanding, to annul such declaration and its consequences;

(b) Any trustee, whether appointed as aforesaid or acting under a deed of trust, indenture or other agreement, and whether or not all bonds have been declared due and payable, shall be

entitled as of right to the appointment of a receiver, who may (to the same extent that the Authority itself could so do) enter and take possession of the facilities of the Authority or any parts thereof, the revenues, rentals, or receipts from which are, or may be applicable to, the payment of the bonds so in default, and operate and maintain the same and collect and receive all rentals and other revenues thereafter arising therefrom in the same manner as the Authority might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustees, the fees, counsel fees and expenses of the trustee, and of the receiver, if any, and all costs and disbursements allowed by the court, shall be a first charge on any revenues and receipts derived from any project or otherwise, the revenues or receipts from which are or may be applicable to the payment of the bonds so in default. Said trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights;

(c) In addition to all other rights and all other remedies, any holder of bonds of the Authority shall have the right by mandamus or other suit, action or proceeding at law, or in equity, to enforce his rights against the Authority, including the right to require the Authority to collect fees, rentals and other charges adequate to carry out any agreement as to, or pledge of, such fees, rentals or other charges or income, revenues and receipts, and to require the Authority to carry out any of its covenants and agreements with the bondholders and to perform its and their duties under this act.

(7 amended Mar. 23, 1984, P.L.138, No.26)

Section 8. Governing Body.--The powers of the Authority shall be exercised by a governing body consisting of the members of the Authority acting as a board. Within ninety days after this act shall become effective the board shall meet and organize by electing from their number a president, treasurer and secretary. At the first regular meeting in each year thereafter they shall elect from their number a president and secretary.

Five members shall constitute a quorum of the board for the purpose of organizing the Authority and conducting the business thereof, and for all other purposes, and all action shall only be taken by vote of a majority of the members of the Authority, unless in any case the by-laws shall require a larger number. The board shall have full authority to manage the properties and business of the Authority, to prescribe, amend and repeal by-laws, rules and regulations governing the manner in which the business of the Authority may be conducted, and the powers granted to it may be exercised and embodied. The board shall fix and determine the number of officers, agents and employes of the Authority and their respective compensation and duties, and may delegate to one or more of their number, or to one or more of said officers, agents or employes, such powers and duties as it may deem proper.

(8 amended Apr. 20, 1949, P.L.636, No.142)

Section 9. Moneys of the Authority.--All moneys of the Authority from whatever source derived shall be paid to the treasurer of the Authority. Said moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies in one or more special accounts, and each of such special accounts shall be continuously secured by a pledge

of direct obligations of the United States of America, or of the Commonwealth, having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer, or be held by a trustee or agent satisfactory to the Authority. All banks and trust companies are authorized to give such security for such deposits. The moneys in said accounts shall be paid out on the warrant or other order of the treasurer of the Authority, or of other person or persons as it may authorize, to execute such warrants or orders. The Department of Revenue of the Commonwealth and its legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other matters relating to its finances, operation and affairs. In order to reimburse the General Fund appropriation to the Department of Revenue for costs incurred by the Department of Revenue in making such examination or examinations, the Authority shall be billed by the Department of Revenue from time to time, as such examination or examinations are made, upon a cost basis, at such amounts as the Department of Revenue, with approval of the Executive Board, shall determine; and such amounts shall be paid by the Authority to the Department of Revenue, and shall be by it paid into the General Fund of the State Treasury and credited to the General Fund appropriation of the Department of Revenue. All moneys of the Authority, from whatever source derived, except such part thereof as may be required to pay the administrative and other costs of operating the Authority as may be provided for in the resolution authorizing the issuance of the bonds or in the trust indenture, shall be set aside at such regular intervals as may be provided in such resolution or such trust indenture in a sinking fund, which is hereby pledged to, and charged with, the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of the bonds as the same shall fall due, (3) the necessary fiscal agency charges for paying principal and interest, and (4) any premium upon bonds retired by call or purchase, as herein provided. The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing the issuance of bonds or in the trust indenture, but except as may otherwise be provided in such resolution or trust indenture, such sinking fund shall be a fund for the benefit of all bonds issued hereunder, without distinction or priority of one over another. Subject to the provisions of the resolutions authorizing the issuance of bonds or of the trust indenture, any moneys in such sinking fund in excess of an amount equal to one year's interest on all bonds then outstanding may be applied to the purchase or redemption of bonds. All bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

(9 amended Jan. 14, 1952, 1951 P.L.1878, No.513)

Section 9.1. Issuance of Bonds.--The bonds of the Authority may be issued pursuant to one or more resolutions or one or more trust indentures and, as provided in such resolution or trust indenture, the moneys set aside in any sinking fund pledged for any particular bonds or series of bonds shall be held for the sole benefit of such bonds, separate and apart from the moneys pledged for any other bonds of the Authority issued under any other resolution or trust indenture.

(9.1 added Aug. 10, 1951, P.L.1151, No.255)

Section 10. Competition in Award of Contracts.--If any project or any portion thereof, or any improvement thereof, shall be constructed pursuant to a contract, and the estimated cost thereof exceeds four thousand dollars (\$4,000), such contract shall be awarded to the lowest responsible bidder after advertisement for bids once a week for three weeks in at least one newspaper of general circulation in the county where the project or improvement is located. The authority may make rules and regulations for the submission of bids and the construction or improvement of any project or portion thereof. No contract shall be entered into for construction or improvement of any project or portion thereof, or for the purchase of materials, unless the contractor shall give an undertaking with a sufficient surety or sureties approved by the Authority, and in an amount fixed by the Authority, for the faithful performance of the contract, and such contract shall be accompanied by an additional bond for the protection of those who furnish labor and material, for such amount and subject to the same terms and conditions as recommended by The Administrative Code of one thousand nine hundred twenty-nine, as amended, on contracts entered into by the Department of General Services for the erection of buildings. All construction contracts shall provide, among other things, that the person or corporation entering into such contract with the Authority will pay for all materials furnished and services rendered, for the performance of the contract, and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the Authority to construct any project or portion thereof or any addition, betterment or extension thereto, directly by the officers, agents and employes of the Authority, or otherwise than by contract. (Par. amended Dec. 22, 1981, P.L.554, No.164)

Subject to the aforesaid, the Authority may (but without intending by this provision to limit any powers of such Authority), enter into and carry out such contracts, or establish or comply with such rules and regulations concerning labor and materials and other related matters in connection with any project or portion thereof as the Authority may deem desirable, or as may be requested by any Federal agency that may assist in the financing of such project or any part thereof.

Every contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the "Steel Products Procurement Act." (Par. added Oct. 4, 1978, P.L.1024, No.227)

(10 amended Apr. 20, 1949, P.L.636, No.142)

Compiler's Note: Section 6(c) of Act 57 of 1998 provided that section 10 is repealed insofar as it is inconsistent with Act 57.

Section 11. Acquisition of Lands.--The Authority shall have the power to acquire by purchase or eminent domain proceedings, either the fee or such right, title, interest or easement in such lands as it may deem necessary for any of the purposes mentioned in this act: Provided, however, That no lands, interest in lands, or property of a public service company, or property used as a burial ground, or place of public worship, or a dwelling house and the reasonable curtilage not to be less

than three hundred (300) feet appurtenant thereto, shall be appropriated by virtue of the power of eminent domain hereby conferred. The right of eminent domain shall be exercised by the Authority in the manner provided by law for the exercise of such right by the Commonwealth.

Section 12. Use of Projects.--The use of the facilities acquired, financed, refinanced, constructed, improved, furnished, equipped, maintained and operated by the Authority and the operation of its business shall be subject to the rules and regulations from time to time adopted by the Authority: Provided, however, That the Authority shall not be authorized to do anything which will impair the security of the holders of the obligation of the Authority or violate any agreements with them or for their benefit.

(12 amended Mar. 23, 1984, P.L.138, No.26)

Section 13. Limitation of Powers.--The Commonwealth does hereby pledge to, and agree with, any person, firm or corporation or Federal agency subscribing to, or acquiring, the bonds to be issued by the Authority for the construction, financing, extension, improvement, or enlargement of any project, or part thereof, or for refunding purposes, that the Commonwealth will not limit or alter the rights hereby vested in the Authority, or limit or alter any provisions for the security and protection of the Authority and its bondholders contained in this act or as now provided by law, until all bonds at any time issued, together with the interest thereon, are fully met and discharged. The Commonwealth does further pledge to and agree with the United States and any other Federal agency that, in the event that any Federal agency shall construct or contribute any funds for the construction, financing, extension, improvement or enlargement of any project or any portion thereof, the Commonwealth will not alter or limit the rights and powers of the Authority in any manner which would be inconsistent with the continued maintenance and operation of the project, or the improvement thereof, or which would be inconsistent with the due performance of any agreements between the Authority and any such Federal agency, and the Authority shall continue to have and may exercise all powers herein granted so long as the same shall be necessary or desirable for the carrying out of the purposes of this act and the purposes of the United States in the construction or improvement or enlargement of any project or such portion thereof.

(13 amended Mar. 23, 1984, P.L.138, No.26)

Section 14. Exemption from Taxation.--The effectuation of the authorized purposes of the Authority created under this act shall and will be in all respects for the benefit of the people of the Commonwealth, for the increase of their welfare and prosperity, and for the improvement of their education and educational facilities, and since the Authority will be performing essential governmental functions in effectuating such purposes, the Authority shall be exempt from payment of any taxes or assessments upon any property acquired, held, owned, leased or used by it for such purposes, and the bonds issued by the Authority, their transfer and the income therefrom (including any profits made on the sale thereof) shall at all times be free from taxation, other than inheritance and estate taxation within the Commonwealth of Pennsylvania.

(14 amended Apr. 20, 1949, P.L.636, No.142)

Section 14.1. Scope of Act.--This act shall be deemed to provide an additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws

and shall not be regarded as in derogation of any powers now existing. Such sections being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

(14.1 added Apr. 20, 1949, P.L.636, No.142)

Section 14.2. Department of Mines and Mineral Industries; Examination of Sites; Reimbursements.--Whenever any public school building or addition to any public school building is to be erected or constructed on a site on, over or adjacent to any land which has or may have been or is being mined for coal or any other mineral, the Authority may request the Department of Mines and Mineral Industries to examine such site and to advise the Authority whether there may be safely erected or constructed on such site a public school building or an addition to a public school building and, if so, under what conditions, if any, such erection or construction may safely be made. In order to reimburse the General Fund appropriation to the Department of Mines and Mineral Industries for costs incurred by the Department of Mines and Mineral Industries in making such examination or examinations and in making reports thereon, the Authority shall be billed by the Department of Mines and Mineral Industries, from time to time as such examination or examinations and reports are made, upon a cost basis at such amounts as the Department of Mines and Mineral Industries, with approval of the Executive Board, shall determine, and such amounts shall be paid by the Authority to the Department of Mines and Mineral Industries and shall be paid by it into the General Fund of the State Treasury and credited to the General Fund appropriation to the Department of Mines and Mineral Industries.

(14.2 added July 17, 1957, P.L.979, No.426)

Section 14.3. Transfer of Projects to School Districts or Other Lessees or Sublessees.--When the Authority shall have finally paid and discharged all bonds, including refunding bonds, together with all interest due thereon, which were issued for the purpose of financing the cost of construction of a project and shall have paid any and all other charges and obligations incurred in connection with such project, the Authority may (subject to the terms of any agreements, leases or indentures of trust concerning the operation, financing and disposition of such project) convey such project to the school district or school districts or board of trustees of any community college to which such project was leased or subleased.

(14.3 amended July 18, 1967, P.L.175, No.50)

Section 15. The sum of one hundred thousand dollars (\$100,000), or so much thereof as may be necessary, is hereby appropriated to the Authority for the payment of costs and expenses incurred in commencing the work of the Authority.

Section 16. The provisions of this act shall become effective immediately upon final enactment.