

SECOND CLASS COUNTY PORT AUTHORITY ACT
Act of Apr. 6, (1956) 1955, P.L. 1414, No. 465 **Cl. 64**
AN ACT

To promote the welfare of the people of this Commonwealth; creating Port Authorities to function in counties of the second class as bodies corporate and politic, with power to plan, acquire, construct, maintain and operate facilities and projects for the improvement and development of the port district 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 the authorities; authorizing the authorities to enter into contracts with and to accept grants from the Federal government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates and services; and authorizing the authorities to collect tolls, fares, fees, rentals and charges for the use of facilities; defining the authorities' powers and duties, and defining the port districts; granting Port Authorities the right to engage in the business of owning, operating, and maintaining a transportation system for the transportation of persons in counties of the second class, providing, when necessary, for extension of transportation systems into adjoining counties and outside of said counties as provided in the act; limiting the jurisdiction of the Public Utility Commission over Port Authorities; authorizing municipalities to make loans and grants and to transfer existing facilities; authorizing Port Authorities to enter into contracts with and to accept grants from State and local governments or agencies thereof; exempting the property and facilities of such Port Authorities from taxation and limiting the time to commence civil action against said Authorities. (Title amended June 13, 2012, P.L.619, No.61)

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

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

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

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

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

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

(5) The crisis in industrial transportation, which threatens the welfare of the Commonwealth, can be reduced by providing adequate port facilities.

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

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

(8) That the well-being and economic health of the counties of the second class require a modern transportation system.

(9) That it is desirable that a public transportation system be established by the creation of an authority as herein provided.

(10) That it is desirable that a port authority be established by the creation of an authority as provided in this act.

(11) That it is intended that the authority created under this act cooperate, where mutually beneficial, with common carriers, that private enterprise and government may mutually provide adequate port facilities and transportation services for the convenience of the public.

(12) That it is intended that an authority created hereunder will cooperate with all municipalities and other public bodies in which it operates so that the public transportation system may best serve the interests of the residents thereof.

Therefore, it is hereby declared to be the policy of the Commonwealth of Pennsylvania to promote the safety and welfare of the inhabitants thereof by the creation of a body corporate and politic for each second class county, to be known as The Port Authority of (insert name of county), which shall exist and operate for the purposes contained in this act. Such purposes are hereby declared to be public uses for which public money may be spent and private property may be acquired by the exercise of the power of eminent domain.

(1 amended June 13, 2012, P.L.619, No.61)

Section 2. As used in this act:

(1) The term "authority" shall mean any body, politic and corporate, created by this act.

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

(3) The term "member" shall mean a member of the governing body of an authority.

(4) The term "board" shall mean the governing body of an authority.

(5) The term "bonds" shall mean and include the notes, bonds, refunding bonds, and other evidences of indebtedness or obligations which the authority is authorized to issue, pursuant to section five of this act.

(6) The term "construction" shall mean and include acquisition and construction, and the term "to construct" shall mean and include to acquire and to construct all in such manner as may be deemed desirable.

(7) The term "municipality" shall mean any county, city, town, borough or township of the Commonwealth of Pennsylvania, or any authority organized under any law of the Commonwealth of Pennsylvania.

(8) The term "Federal agency" shall mean and include the United States of America, the President of the United States and any department or corporation, agency or instrumentality, heretofore or hereafter created, designated or established by the United States of America.

(9) The term "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 all in such manner as shall be deemed desirable.

(10) The term "persons" shall mean and include natural persons.

(11) The term "port terminal" shall include any marine, motor truck, railroad and air terminal, also any coal, grain, bulk liquids and lumber terminal and any union, freight and other terminals, used or to be used, in connection with the transportation or transfer of freight and equipment, materials and supplies.

(12) The term "port facility" shall include all real and personal property used in the operation of a port terminal, including, but without being limited to, wharves, piers, slips, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, float-bridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil and fresh water stations, railroads, motor trucks, floating elevators, airports, barges, scows or harbor craft of any kind, markets and every kind of terminal storage or supply depot, now in use or hereafter designed for use, to facilitate transportation and for the handling, storage, loading or unloading of freight at terminals, and equipment, materials and supplies therefor.

(13) The term "transportation system" shall mean all property, real and personal, useful for the transportation of passengers for hire, including but not limited to power plants, substations, terminals, garages, bridges, tunnels, subways, monorails, railroad motive power, trains, railroad passenger cars, and equipment, belt conveyors, inclines, car barns, street cars, buses, rails, lines, poles, wires, off-street parking facilities, as well as the franchises, rights and licenses therefor, including, but not limited to, the right to provide, directly or through contract, transportation or transportation services for any elderly, handicapped or Americans with Disabilities Act (ADA)-eligible persons or group and party services: Provided, That such term shall not include taxicabs or bus companies, the main purpose of which is the transportation of children to and from school.

(14) The term "facility" shall mean port facility and transportation system.

(15) The term "local authorities" shall mean the officers of a municipality, elected or appointed, authorized to consent to the use of the municipality's streets, highways, bridges and tunnels and to enter into agreements relative to such use with the port authority.

(16) The term "Public Utility Commission" shall mean the Public Utility Commission of the Commonwealth of Pennsylvania, created by the act of March 31, 1937 (P.L.160).

(17) The term "service area" shall mean the entire county incorporating the authority and those portions of adjacent counties necessary to permit the authority (i) to acquire a transportation system, at a price and in a manner deemed reasonable by an authority; (ii) to acquire by purchase only and not by exercise of the right of eminent domain other existing transportation systems or parts thereof which, in the authority's sole discretion, are required for the establishment of a system; (iii) to establish transit service between points in the county incorporating the authority and points in the adjacent counties where no such service is at the time being rendered and which service the authority, in its sole discretion, has determined to be required: Provided, however, That no such service shall be established without the consent

of the affected adjacent county nor without participation of such county in the payment of the cost of establishing and maintaining such service; and (iv) to establish rapid transit facilities over jointly used or exclusive fixed rights of way.

(18) The term "common carrier" shall have the same meaning as given to it in 66 Pa.C.S. § 102 (relating to definitions).

(2 amended June 13, 2012, P.L.619, No.61)

Section 3. (a) There is created in each county of the second class a single body corporate and politic, to be known as Port Authority of (insert name of county), which shall exercise the public powers of the Commonwealth as an agency thereof. An authority created under this section shall be for the purpose of planning, acquiring, holding, constructing, improving, maintaining and operating, owning, leasing, either as lessor or lessee, port facilities within the port district of the county by which it is incorporated, and a transportation system in the county by which it is incorporated and outside of the county to the extent necessary for (i) the establishment of a transportation system; (ii) the establishment of additional transit service where none at the time is being otherwise rendered; (iii) the establishment of rapid transit facilities over jointly used or exclusive fixed rights of way and (iv) the rendering of group and party services.

(b) An authority shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights or powers:

(1) To have perpetual existence.

(2) To sue and be sued, implead and be impleaded, complain and defend in all courts, to petition the Interstate Commerce Commission (or like body) or join in any proceeding before any such bodies or courts in any matter affecting the operation of any project of the authority.

(3) To adopt and use and alter at will a corporate seal.

(4) To establish a principal office and such other office or offices as may be necessary for the carrying on of its duties.

(5) To acquire, purchase, hold, lease as lessee and use any franchise, 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 interest therein, at any time, required by it. In exercising the power granted by this subsection, the authority shall consider the same value factors as provided in section 7 of this act in determining compensation under the exercise of eminent domain.

(6) To acquire by purchase, lease, or otherwise, and to construct, improve, maintain, repair and operate facilities.

(6.1) To construct, improve, maintain, repair and operate high-occupancy vehicle lanes that are incorporated into and are made part of an authority facility.

(7) To make by-laws for the management and regulation of its affairs.

(8) To appoint officers, agents, employes and servants, to serve at the pleasure of the board (except as may otherwise be provided in collective bargaining agreements) and to prescribe their duties and fix their compensation: Provided, however, That the authority may bind itself by contract to employ an executive director, a general manager or a combined executive director and general manager and not more than five other senior executive personnel but no such contract shall be for a period of more than five years.

(9) To fix, alter, charge and collect fares, rates, rentals and other charges for its facilities by zones or otherwise at reasonable rates to be determined exclusively by it, subject to appeal, as hereinafter provided, for the purpose of providing for the payment of the expenses of the authority, the acquisition, construction, improvement, repair, maintenance and operation of its facilities and properties, the payment of the principal and interest on its obligations, and to comply fully with the terms and provisions of any agreements made with the purchasers or holders of any such obligations. The authority shall determine, by itself exclusively, the facilities and the services to be operated by it. Any person questioning the reasonableness of any rate or services fixed by an authority may bring suit against the authority in the court of common pleas of the county incorporating the authority. The court of common pleas shall have exclusive jurisdiction to determine the reasonableness of fares, rates and other charges or services fixed, altered, charged or collected by an authority. The court shall make such order as to fares, rates and other charges or services as to it shall be just and proper.

(10) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations 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.

(11) To make contracts of every name and nature, and to execute all instruments necessary or convenient for the carrying on of its business. Without limiting the generality of the foregoing, the authority is authorized to enter into contracts for the purchase, lease, operation or management of facilities subject to the jurisdiction of the Interstate Commerce Commission.

(12) Without limitation of the foregoing, to borrow money and accept grants from and to enter into contracts, leases or other transactions with any Federal agency, Commonwealth of Pennsylvania, municipality or corporation.

(13) To have the power of eminent domain.

(14) 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.

(15) To do all acts and things necessary for the promotion of its business, and the general welfare of the authority to carry out the powers granted to it by this act or any other acts.

(16) To enter into contracts with the Commonwealth of Pennsylvania, municipalities or corporations, on such terms as the authority shall deem proper for the use of any facility of the authority, and fixing the amount to be paid therefor.

(17) To enter into contracts of group insurance for the benefit of its employes, or to continue in existence any existing insurance and/or pension or retirement system and/or any other employe benefit arrangement covering employes of an acquired transportation system, and/or to set up a retirement or pension fund or any other employe benefit arrangement for such employes.

(18) An authority shall have no power, at any time or in any manner, to pledge the credit or taxing power of the

Commonwealth of Pennsylvania or any political subdivision, nor shall any of its obligations be deemed to be obligations of the Commonwealth of Pennsylvania or of any of its political subdivisions, nor shall the Commonwealth of Pennsylvania or any political subdivision thereof be liable for the payment of principal or interest on such obligations.

(19) Private rights and property in the beds of existing public highways vacated in order to facilitate the purposes of the authority shall not be deemed destroyed or ousted by reason of such vacation, but shall be acquired or relocated by the authority in the same manner as other property.

(20) To have the right to use any public road, street, way, highway, bridge or tunnel for the operation of a transportation system within the service area of its system as set forth in the authority's plan of integrated operation as provided in section 13.1 hereof: Provided, That in the case of street railway or trolley coach facilities or pole and wire facilities or overhead structures, such right shall not be exercised within the limits of any county, city, borough or township, without the consent of the local authorities thereof and/or the Department of Transportation, which consent shall not be unreasonably withheld and cannot be conditioned upon the payment of any bridge tolls or license fees, notwithstanding any existing agreements with the predecessor company or individual; and to enter into agreements with and accept franchises and licenses from such cities, boroughs and townships for such use.

(21) To establish such carrier routes as it deems necessary for the efficient operation of the transportation system owned by it under the terms of this act, subject to any limitations herein provided for; and to alter and vary and discontinue such carrier routes at its discretion.

(22) To self insure or otherwise provide for the insurance of any property or operations of the authority against any risks or hazards.

(23) To lease property or contract for service, including managerial and operating service, whenever it, in its sole discretion, determines that it can more efficiently and effectively serve the public by so doing, rather than conducting its own operations with its own property or employes.

(24) To form plans for the improvement of public mass transportation in order to promote the economic development of the service area in which the authority operates; to make recommendations concerning thoroughways and arterial highway connections to the department and to other appropriate governmental bodies; and otherwise to cooperate with all such governmental bodies.

(25) To enter into agreements with any public utility operating a railroad or any other public or private transportation facility or common carrier wholly or partially located or providing transportation services within the service area for the joint or exclusive use of any property of the entity, the authority or the public utility or the establishment of through routes over the rights of way of the entity, the public utility or the authority or the establishment of joint fares and transfer of passengers.

(26) To develop programs designed solely to advertise, promote and stimulate the development and use of its port facility and transportation system and to join and to authorize its agents, employes and servants to join national and local trade and professional organizations organized for the purpose of promoting the betterment of port facilities and transportation systems and the improvement of the efficiency

of persons connected with or employed by port facilities and transportation systems.

(27) Notwithstanding any other provision of law, to contract with any third party for the allocation of liability for any and all claims, actions, suits or damages, whether for compensatory or punitive damages, arising against a third party or the authority in connection with any accident or incident related to the operations conducted by or on behalf of or authorized by the authority or a third party, on property owned by the authority or on property owned by a third party and adjacent to the authority's property. If a third party asserts against the authority any claim relating to liability that the authority, pursuant to contract, has assumed, such claim may, to the extent provided in this clause, result in the imposition of liability on the authority, and the defense of sovereign immunity as provided in 42 Pa.C.S. Ch. 85 Subch. B (relating to actions against Commonwealth parties) shall not be raised by the authority in connection therewith. The aggregate of liability for all claims, actions, suits or damages, whether for compensatory or punitive damages, that may be asserted against and imposed upon such third party and which the authority, pursuant to such contract, has assumed shall not exceed the limits of the liability insurance coverage maintained by the authority in connection with such assumed obligations, which insurance coverage shall not be less than ten million dollars. The authority shall be entitled to obtain and maintain insurance coverage in amounts deemed by the authority to be necessary or desirable and to name such third party as an additional named insured on any insurance policies relating thereto.

(3 amended June 13, 2012, P.L.619, No.61)

Section 3.1. (a) There is hereby established a citizens advisory committee to be known as the (insert name of county) Transit Council.

(b) The members of the transit council shall, independent of the authority, adopt such bylaws, rules and regulations, and elect such officers as they deem appropriate for the conduct of the council's business.

(c) Regardless of whether public hearings are required on the following matters, the executive director shall submit to the transit council, before final action is taken by the board, proposals regarding (1) the adoption or amendment of a comprehensive transit plan, (2) the annual operating budget, (3) any capital budget, (4) the facilities to be operated, (5) the services to be available and the rates to be charged therefor or (6) other matters of similar nature. The transit council may thoroughly consider the proposals and may prepare and transmit, to the executive director, the board and to any interested member of the public, written comments concerning the proposals prior to the date when final action is to be taken.

(d) Although the board shall give careful and due consideration to the transit council's comments prior to the taking of any final action, the council's comments shall be considered only advisory in nature.

(3.1 added July 2, 1986, P.L.309, No.76)

Section 3.2. (a) In addition to any audits or financial statements required by the county, State or Federal Government, the authority shall be subject to the following performance audit requirements:

(1) at least once every four years, the Office of the Auditor General shall review the procedures and audit, settle and adjust the accounts of the authority; and

(2) at least once every eight years, the board shall engage an outside consultant to conduct a comprehensive management study of the entire operation of the authority, including recommendations to improve the efficiency of services being provided.

(b) In no instance shall the same consultant be used for consecutive audits.

(c) The findings of both of the audits required by subsection (a) shall be made available to the public.

(d) This section shall not be construed to prohibit more frequent reviews of the books and accounts of the authority.

(3.2 added July 2, 1986, P.L.309, No.76)

Section 3.3. (a) Within one year after the effective date of this amendatory act and annually thereafter, the board shall adopt a series of service standards and performance-evaluation measures. These service standards and performance-evaluation measures shall consist of objectives and specific numeric performance levels to be achieved in meeting these objectives. The areas to be addressed are:

(1) an automatic mechanism to review the utilization of routes;

(2) staffing ratios (ratio of administrative employes to operating employes, number of vehicles per mechanic);

(3) productivity measures (vehicle miles per employe, passenger and employe accidents per one hundred thousand vehicle miles, on-time performance, miles between road calls);

(4) fiscal indicators (operating cost per passenger, subsidy per passenger);

(5) the attendance of board members at regularly scheduled meetings of the board;

(6) the accessibility of the authority's services to elderly and handicapped individuals; and

(7) any other matter as desired by the board.

(b) The service standards and performance-evaluation measures shall be established by an action of the board following an opportunity for comment from the public, the transit council, any labor union representing authority employes, county government and other interested parties.

(c) In the discretion of the board, the service standards and performance-evaluation measures may be system-wide or based on a sampling.

(d) The service standards and performance-evaluation measures shall only constitute goals for the authority in providing service in the year following their adoption. At the end of the year, fiscal or calendar as the case may be, the authority shall release to the public a report indicating the projected performance level and the performance level that was actually achieved.

(3.3 added July 2, 1986, P.L.309, No.76)

Section 3.4. (a) Annually, the board shall adopt an operating budget for the ensuing fiscal year. The budget shall reflect as nearly as possible the estimated revenues, including governmental operating subsidies and expenses of the authority for the fiscal year for which the budget is prepared. The total expenses shall not exceed the revenues estimated as available for the fiscal year.

(b) The board may at any time make supplemental appropriations or revisions of the budget for any lawful purpose from funds on hand or estimated to be received within the fiscal

year and not otherwise appropriated, or from funds received in excess of projections.

(c) Where the governmental operating subsidies received during the year are less than anticipated in the operating budget adopted by the board, the board shall adjust the level of total expenditures so that total expenditures do not exceed the revised level of anticipated revenues.

(3.4 added July 2, 1986, P.L.309, No.76)

Section 4. 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, bear interest at such rate or rates, not exceeding six percent per annum, except that for a period of one year after the effective date of this amendatory act, the rate or rates of interest may be in excess of six percent per annum as shall be determined by the board of the authority as necessary to issue and sell said bonds, except that no bonds shall be sold at less than ninety-eight percent of their principal amount plus interest charges, payable semi-annually, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such registration, exchangeability and interchangeable 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 percent 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 bonds shall be signed by such officers as the authority shall determine, 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. The bonds may be issued and delivered, notwithstanding that one or more of the officers signing the bonds or the treasurer, whose facsimile signature shall be upon the coupon, or any officer thereof, shall have ceased to be such officer at the time when the bonds shall actually be delivered. (Par. amended Feb. 24, 1970, P.L.64, No.28)

The bonds may be sold at public or private sale, for such price or prices as the authority shall determine, except that no bonds shall be sold at less than ninety-eight percent of their principal amount plus interest charges, but the interest cost to maturity of any money received for any issue of said bonds shall not exceed six percent per annum, except that for a period of one year after the effective date of this amendatory act, the interest cost to maturity of any money received on any issue of said bonds may exceed six percent per annum as shall be determined by the board of the authority as necessary to issue and sell said bonds. Pending the preparation of the definitive bonds, interim receipts or temporary bonds may be issued to the purchaser or purchasers of the bonds and may contain such terms and conditions as the authority may determine. (Par. amended Feb. 24, 1970, P.L.64, No.28)

Any resolution or resolutions, authorizing any bonds, may contain provisions which shall be part of the contract with the holders thereof as to (1) pledging the full faith and credit of the authority for such obligations, or restricting the same to all or any of the revenues, rentals or receipts of the authority from all or any facilities, (2) the construction, improvement, operation, extension, enlargement, maintenance and repair of the facilities and the duties of the authority with reference thereto, (3) the terms and provisions of the bonds,

(4) limitations on the purposes to which the proceeds of the bonds, then or thereafter to be issued, or of any loan or grant of the United States may be applied, (5) the rate of tolls, 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 lease or other agreement, pursuant to which tolls, rentals or other charges are payable, (6) the setting aside of reserves or sinking funds and the regulations and disposition thereof, (7) limitations on the issuance of additional bonds, (8) the terms and provisions of any deed of trust or indenture securing the bonds or under which the same may be issued, and (9) any other or additional agreements with holders of the bonds.

The authority may enter into any deeds of trust indentures or other agreements with any bank or trust company or any 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 any or all of the revenues, rentals or receipts of the authority thereunder. The 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, provision as to (1) the construction, improvement, operation, maintenance and repair of facilities and the duties of the authority with reference thereto, (2) the application of funds and the safeguarding of funds on hand or on deposit, (3) the rights and remedies of said trustees and the holders of the bonds (which may include restrictions upon the individual right of action upon such bondholders), and (4) the terms and provisions of the bonds or the resolutions authorizing the issuance of the same.

The bonds shall have all the qualities of negotiable instruments under the law of merchants and the Uniform Commercial Code of the Commonwealth of Pennsylvania.

Section 5. The rights and remedies, hereinafter 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. In the event that the authority shall default in the payment of principal or interest on any of the bonds after such principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in event 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 percentum in the aggregate of the 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.

The trustee and any trustee under any deed of trust indenture or other agreement may and, upon written request of the holders of twenty-five percentum (or such other percentages 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 or 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 benefits 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 trust 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, and (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.

The court of common pleas of the county wherein the authority is located shall have jurisdiction of any suit, action or proceedings by the trustees on behalf of the bondholders. Any trustee, when 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 part or 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 or board 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 trustee, 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, rentals and receipts derived from the facilities of the authority, 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.

Nothing in this act shall authorize any receiver appointed pursuant to this act for the purpose of operating and maintaining any facilities of the authority, to sell, assign, mortgage or otherwise dispose of any of the assets of whatsoever kind and character, belonging to the authority. It is the intention of this act to limit the powers of such receiver to the operation and maintenance of the facilities of the authority, as the court may direct, and no holder of the bonds of the authority nor any trustee shall ever have the right in any suit, action or proceedings, in law or in equity, to compel a receiver, nor shall any receiver ever be authorized or any court be empowered to direct a receiver to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character belonging to the authority.

Section 6. (a) Subject to the provisions of section 6.1, the powers of an authority shall be exercised by a board, composed of eleven members.

(b) The terms of members serving on the board on the effective date of this subsection shall expire in sixty days.

Nothing in this subsection shall be construed to prohibit a current member from being reappointed by an appointing authority under this act.

(c) The board shall be composed of the following members:

(1) One member appointed by the Governor under subsection (d).

(2) Four members appointed by officers of the General Assembly under subsection (e).

(3) Six members appointed by the county executive of the county where the authority is located composed of the following:

(i) Four appointees by the county executive of the county where the authority is located.

(ii) Two appointees who are recommended by the organizations in subsection (g) by the county executive of the county where the authority is located subject to confirmation by a majority vote of the members of the county council.

(d) A member appointed by the Governor under subsection (c)(1) shall serve a four-year term.

(e) (1) Appointments by officers of the General Assembly under subsection (c)(2) shall be made as follows:

(i) One individual shall be appointed by the President pro tempore of the Senate.

(ii) One individual shall be appointed by the Minority Leader of the Senate.

(iii) One individual shall be appointed by the Speaker of the House of Representatives.

(iv) One individual shall be appointed by the Minority Leader of the House of Representatives.

(2) Members appointed by the President pro tempore of the Senate and the Minority Leader of the Senate under subsection (c)(2) shall serve a four-year term.

(3) Members appointed by the Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall serve an initial three-year term immediately following the effective date of this subsection, to be followed thereafter by a four-year term.

(f) A member appointed by the county executive shall serve an initial term as follows to be immediately followed thereafter by a four-year term:

(1) Two appointees under subsection (c)(3)(i) shall serve an initial term of two years and two appointees under subsection (c)(3)(i) shall serve an initial term of three years, as designated by the county executive.

(2) The appointees under subsection (c)(3)(ii) shall serve an initial term of two years.

(g) The appointments made by the county executive under subsection (c)(3)(ii) shall be made in accordance with the following:

(1) The county executive shall select from a list of recommendations submitted by each of the following organizations to the appropriate appointing authority:

(i) The Allegheny Conference.

(ii) The Southwestern Pennsylvania Commission.

(iii) Councils of Government with constituent members in the county.

(iv) The Committee for Accessible Transportation.

(2) (Reserved).

(h) Except for an appointee under subsection (c)(1) who shall be a resident of this Commonwealth, appointees shall be residents of the county where the authority is located and have expertise or substantial experience in budgeting, finance, economic development, transportation or mass transit operations.

(i) Appointing authorities shall appoint initial board members within sixty days of the effective date of this subsection.

(j) Members' initial terms shall commence sixty days following the effective date of this subsection.

(k) No member shall serve more than three consecutive terms, including initial terms.

(1) (1) A member shall not receive compensation for his services but shall be entitled to the necessary expenses, including traveling expenses incurred in the performance of his duties.

(2) Within ninety days after the effective date of this paragraph, the board shall meet and organize by electing from their number a chairman, a vice chairman, and such other officers as the board may determine.

(3) The board may employ a secretary, an executive director, its own counsel and legal staff and such technical experts and other agents and employes, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation of such persons.

(4) Six members of the board shall constitute a quorum for its meetings.

(4.1) The consent of at least seven members of the board shall be necessary to take action on behalf of the authority.

(4.2) Board action on the following matters will be tabled upon motion and seconded by the two board members appointed pursuant to subsection (c)(2) by officers of the General Assembly who are not of the same political party affiliation as the county executive:

(i) Adopting bylaws.

(ii) Appointing a chief executive officer.

(iii) Authorizing bonds, other borrowing and leases.

(iv) Approving contracts which will entail expenditures in excess of five million dollars.

(5) Members of the board shall not be liable personally on the bonds or other obligations of the authority, and the rights of creditors shall be solely against the authority.

(6) The board may delegate to one or more of its agents or employes such of its powers as it shall deem necessary to carry out the purposes of this act, subject always to the supervision and control of the board.

(7) The board shall have full authority to manage and operate the business of the authority and 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.

(8) Copies of such by-laws, rules and regulations shall be filed with the county council of the county.

(9) A member may be removed for cause by the court of common pleas of the county in which the authority is located after having been provided with a copy of the charges against the member for at least ten days and a full hearing by the court.

(m) If a vacancy occurs by reason of the death, resignation or removal of a member, the designated appointing authority shall appoint a successor to fill the unexpired term within sixty days.

(6 amended July 18, 2013, P.L.605, No.72)

Compiler's Note: Section 3(1) of Act 11 of 1999, which amended section 6, provided that the amendment of section 6 relating to the appointment of a member of the county council to the board of the authority shall take effect

February 1, 2000, and be applicable to the first vacancy occurring on or after February 1, 2000.

Compiler's Note: The act of July 2, 1986, P.L.309, No.76 which amended this section provided for the reduction in members from twelve to nine, effective Jan. 1, 1988.

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

(6.1 added Oct. 7, 1959, P.L.1266, No.429)

Section 7. (7 repealed Oct. 7, 1959, P.L.1266, No.429)

Section 7.1. An authority shall exercise its power of eminent domain in the manner prescribed by the provisions of Article XXVI of the act of July 28, 1953 (P.L.723), known as the "Second Class County Code," except as such provisions are in conflict with the provisions of this section: Provided, That no property owned or used by the United States, the Commonwealth of Pennsylvania, any political subdivision thereof, or any body politic and corporate organized as an "authority" under any law of the Commonwealth or by any agency of any of them, nor any property used by a public utility other than a transportation system, nor any common carrier subject to the jurisdiction of the Interstate Commerce Commission or the Public Utility Commission, nor any property used for burial purposes or places of public worship, shall be taken under the right of eminent domain.

In case the authority shall repeal any resolution passed or discontinue any proceeding taken with respect to the exercise of its right of eminent domain prior to the entry upon, taking, appropriation or injury to any property, the authority shall not thereafter be liable to pay any damages which have been or might have been assessed, but all costs and expenses upon any proceeding had thereon shall be paid by the authority together with any actual damage, loss or injury sustained by reason of such proceeding.

In ascertaining, assessing and determining the amount of compensation or damages to be paid by the authority, the board of viewers may determine every fact, matter or thing, which in its judgment does or may have any bearing on the fair amount of the compensation. The factors thus to be taken into account shall include, among other things, the gross annual revenue, the original cost of construction, with particular reference to the amount expended in existing and useful permanent improvements, with such consideration for the amount in market value of the owner's bonds and stocks, if the owner be a corporation, as to the board of viewers may seem just and fair; the probable earning capacity of the property under particular rates prescribed by statute or ordinance or other municipal contract or fixed by any regulatory body; and for the items of expenditures for obsolete equipment and construction as the circumstances and historical development of the properties may warrant. The reproduction cost of the property based upon the fair average price of materials, property and labor, and the development and going-concern value of such properties, facilities, and franchises, any element of delay under these proceedings, and other elements of value, shall be given such weight by the board of viewers as may, in its judgment, be just

and right in each case, as in other matters involving the valuation of properties and facilities devoted to the public service and coming before the said board of viewers for determination. The determination of the board of viewers shall award compensation or damages to each owner separately, and, in case any owner is also the lessee of the properties, facilities and franchises of any other company whose properties, facilities or franchises are acquired or to be acquired hereunder, the total amount awarded with respect thereto shall be apportioned between the owner or owners of such properties, facilities and franchises and any person or persons, company or companies, having an interest therein by virtue of any such lease or series of leases, the purpose of this provision being that the gross amount of damages or compensations, ascertained and determined as hereinabove provided, shall be distributed among those rightfully entitled thereto in such manner as may be just and equitable, having in view their respective interests therein.

When the authority exercises its right of eminent domain, it shall, prior to taking possession of the property, pay into the court of common pleas of the county in which said authority is located in the manner to be provided by the rules of court, a sum equal to seventy-five per centum (75%) of the amount estimated by it as the damages which will result from such exercise. Upon such payment into court, the authority shall have the right to immediate possession of the property and the authority shall be relieved of all obligation to see to the application or distribution of said money paid into court. The court shall direct the payment of said sum of money to the person or persons entitled thereto upon petition and proof of such entitlement and upon such conditions, including the filing of a refunding bond, as the court shall, by general or special rule, provide.

Any payments made pursuant to this act shall be credited upon the award or verdict and final judgment, provided such award and judgment is in a greater amount. Any payment made in excess of the award and verdict and final judgment shall be refunded to the authority. Detention damages and interest on the award of damages shall be limited to the amount, if any, by which the amount of money paid into court, as hereinabove required, is less than the award or verdict and final judgment.

(7.1 amended June 13, 2012, P.L.619, No.61)

Section 8. All moneys of the authority, from whatever source derived, shall be paid to the treasurer of the authority. The 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 to the extent the same is not insured shall be continuously secured by a pledge of direct obligations of the United States of America or the Commonwealth of Pennsylvania, having an aggregate market value exclusive of accrued interest, at all times, at least equal to the balance on deposit in such account. The securities shall either be deposited with the treasurer or 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 chairman of the authority or of such other person or persons as the authority may authorize to execute such warrants or orders. As soon after the end of each fiscal year as may be expedient, the board shall cause to be prepared and printed a report and financial statement certified to by an independent certified public accountant of its

operations and of its assets and liabilities. A condensed annual financial report of the authority shall be published each year, once a week for two consecutive weeks, in at least two newspapers of general circulation in the county creating the authority. A copy of the annual report shall be filed with the county commissioners of the county creating the authority and with the governing body of each municipality in which the authority operates.

(8 amended Oct. 7, 1959, P.L.1266, No.429)

Section 9. (9 repealed Oct. 7, 1959, P.L.1266, No.429)

Section 9.1. (a) All contracts or purchases in excess of ten thousand dollars (\$10,000) shall be in writing and, except those hereinafter mentioned, shall not be made except with and from the lowest responsible bidder meeting specifications, after due notice in at least one newspaper of general circulation, published or circulating in the county at least three (3) times, at intervals of not less than three (3) days where daily newspapers of general circulation are employed for such publication, or in case weekly newspapers are employed, then the notice shall be published once a week for two (2) successive weeks. The first advertisement shall be published not less than ten (10) days prior to the date fixed for the opening of bids.

All contracts or purchases under ten thousand dollars (\$10,000) may be negotiated with or without competitive bidding under sound procurement procedures as promulgated and established by the board.

((a) amended Mar. 25, 1988, P.L.294, No.34)

(b) The acceptance of bids shall only be made by public announcement at the meeting of the board at which bids are received or at a subsequent meeting, the time and place of which shall be publicly announced when bids are received. If for any reason one or both of the above meetings shall not be held, the same business may be transacted at any subsequent meeting, if at least five (5) days' notice thereof shall be published in the newspaper aforesaid.

(c) The successful bidder, when advertising is required herein, shall be required to furnish a bond with suitable reasonable requirements guaranteeing performance of the contract, with sufficient surety in the amount of fifty per centum (50%) of the amount of the contract, within twenty (20) days after the contract has been awarded unless the board shall prescribe a shorter period of not less than ten (10) days, and upon failure to furnish such bond within such time, the previous awards shall be void. Deliveries, accomplishment and guarantees may be required in all cases of expenditures, including the exceptions herein, and in the case of construction contracts, the successful bidder shall be required to furnish an additional bond in an amount of at least fifty per centum (50%) of the amount of the contract for the protection of all persons furnishing labor or materials in the performance of such construction contract. Any person furnishing labor or materials in the performance of a construction contract may maintain an action on the additional bond to recover for such labor or materials as though such person were named in the bond as obligee: Provided, That such person shall have commenced his action within one (1) year from the time the cause of action accrued.

(d) The contracts or purchases made by the board which shall not require advertising or bidding as hereinbefore provided, are as follows: (Par. amended Dec. 30, 1970, P.L.953, No.300)

(1) Those for maintenance, repairs or replacements for water, electric light, or other public works: Provided, That

they do not constitute new additions, extensions or enlargements of existing facilities and equipment, but a bond may be required by the board as in other cases of work done.

(2) Those made for improvements, repairs and maintenance of any kind made or provided by the board through its own employees: Provided, That this shall not apply to construction materials used in a street improvement.

(3) Those where particular types, models or pieces of new equipment, article, apparatus, appliances, vehicles or parts thereof are desired by the board, which are patented and manufactured products or copyrighted products.

(4) Those involving any policies of insurance or surety company bonds, those made with a municipality or a county, the Commonwealth of Pennsylvania, the Federal government, any agency of the Commonwealth or the Federal government, or any municipal authority, including the sale, leasing or loan of any supplies or materials by the Commonwealth or the Federal government or their agencies, but the price thereof shall not be in excess of that fixed by the Commonwealth, the Federal government or their agencies.

(5) Those involving personal or professional services.

(e) 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." ((e) added Oct. 4, 1978, P.L.1020, No.225)

(9.1 added Oct. 7, 1959, P.L.1266, No.429)

Section 10. The use of the facilities of the authority and the operation of its business shall be subject to the rules and regulations adopted from time to time by the authority, but the authority shall not be authorized to do anything which will impair the security of the holders of the obligations of the authority or violate any agreements with them or for their benefit.

Section 10.1. (a) Except as otherwise provided in subsection (b), it shall be unlawful for any person to smoke a cigar, pipe, cigarette or other device used to smoke or to eat or drink anything on a public conveyance owned or operated by the authority, including, but not limited to, a bus, street railway car, light rail vehicle, a commuter rail train or incline.

(b) Subsection (a) shall not apply to: (i) passengers on a commuter rail car which comprises part of a commuter rail train and which car is specifically designated as an area on the train where smoking, eating or drinking is permitted; (ii) passengers on a bus, street railway car or light rail vehicle which is being used to transport groups or parties of persons, the charge for which is based upon the transportation of a group and not upon the number of persons carried and for which payment is made by a single person or organization and not by the passengers as individuals; or (iii) eating or drinking in the transit stations used by public conveyances owned or operated by the authority.

(c) The authority shall post a notice of any prohibitions or restrictions against smoking, eating and drinking and the penalty imposed by this section on the inside front of all public conveyances referred to in subsection (a).

(d) A person who violates the provisions of subsection (a) shall, upon conviction in a summary proceeding, be sentenced to pay a fine of fifty dollars and the costs of prosecution and, in default of the payment of the fine and costs, shall be

sentenced to imprisonment for a period of not more than ten days.

(10.1 added June 18, 1999, P.L.72, No.11)

Section 11. 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, extension, improvement or enlargement of any facility, or part thereof, that the Commonwealth will not limit or alter the rights hereby vested in the authority, until all bonds, at any time issued, together with the interest thereon, are fully met and discharged. The Commonwealth of Pennsylvania does further pledge to, and agree with the United States and any other Federal agency, that in the event any Federal agency shall construct or contribute any funds for the construction, extension, improvement or enlargement of any facility, or 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 facility, 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 may 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 the facility or such portion thereof.

Section 12. The effectuation of the authorized purposes of any 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 commerce and prosperity, and for the improvement of their health and living conditions; and since the authority will be performing essential government functions in effectuating such purposes, the authority shall not be required to pay any taxes or assessments upon any property acquired or used by it for such purposes, or fee, bridge tolls or other charge imposed or authorized to be imposed by virtue of any law of the Commonwealth of Pennsylvania, except vehicle registration fees, liquid fuels taxes, fuel use taxes, gross receipts taxes imposed as an excise on the use of public highways, and tolls imposed by the Pennsylvania Turnpike Commission. In lieu of taxes or special assessments, the authority may agree to make payments to any municipality. The bonds issued by the authority, their transfer and the income therefrom, including any profits made on the sale therefrom, shall at all times be free from taxation, other than inheritance and estate taxation, within the Commonwealth of Pennsylvania.

(12 amended Oct. 7, 1959, P.L.1266, No.429)

Compiler's Note: The acts of Feb. 1, 1974, P.L.24, No.9 and Feb. 1, 1974, P.L.27, No.10 repealed this section insofar as it is inconsistent with those acts.

Section 13. Any municipality or owner is hereby authorized to sell, lease, lend, grant, transfer or convey to an authority, with or without consideration, any facility or any part or parts thereof, or any interest in real or personal property which may be used by the authority in the construction, improvement, maintenance or operation of any facility. Any municipality is also authorized to transfer, sell, assign and set over to the authority any contracts which may have been awarded by such municipality for the construction of facilities not begun, or if begun, not completed. Any county of the second class is

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

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

(13 amended June 13, 2012, P.L.619, No.61)

Section 13.1. An authority, immediately upon its organization, shall commence its study of a system of transportation within the service area. Such study shall include, but not be limited to the estimated cost of acquisition of existing transportation systems, the development of facilities, the estimates of revenues and the financial feasibility of a system of transportation. Thereafter, the authority shall prepare a plan of operation showing the service area and the pattern of its system. The plan of operation shall be submitted for approval to the county council of the county where the authority is located, and simultaneously, the authority shall submit to the county council the recommendation of the authority on the plan of operation, and a schedule disclosing estimated cost of acquisition of existing transportation systems, estimates of revenue and expenditures for the proposed plan of operation, and the proposed method of financing the acquisition and the plan of operation. The county council shall advertise the fact that the plan of operation has been submitted and is available for public inspection at least once each week for two consecutive weeks in a newspaper of general circulation in the county where the authority is located: Provided, That no action may be taken by the county council until the plan of operation has been on file in the office of the county council and available for public inspection for a period of at least thirty days following the date of publication of the second notice. The county council may approve or reject the plan of operation as submitted or, at any time thereafter, direct the authority to revise the original plan of operation. In the event of a revision of the original plan of operation, such revised plan of operation shall be resubmitted to the county council and shall be acted upon in the same manner as herein provided in the case of the submission by the authority of the original plan of operation. Prior to approving or rejecting the plan of operation or revised plan of operation, the county council may submit the question of

approval of such plan or revised plan of operation for referendum at any general, municipal or primary election. In the event of a referendum, the question shall be submitted on the ballot or on voting machines in the manner provided by the election laws of the Commonwealth and shall be in substantially the following form:

Shall the county council of
County approve the plan of operation of aYes.....
transportation system submitted under the
provisions of the Second Class County PortNo.....
Authority Act?

The referendum on this question shall be governed in all respects by the election laws of the Commonwealth in so far as they are applicable. Upon final approval by the county council, the original or revised plan of operation shall be recorded in the office of the recorder of deeds of the county or counties affected thereby and a copy of said plan of operation shall also be filed with the Public Utility Commission. The authority shall, thereafter, have the right to make such changes in the pattern of its transportation system and its service area as it may deem proper, subject to appeal to the court of common pleas in the same manner as provided for in clause (9) of subsection (b) of section 3 of this act, by adopting an amendment to the plan of operation or service area and filing and recording the same in the office of the recorder of deeds and with the Public Utility Commission as above provided. The authority shall not have power to acquire by purchase, condemnation or otherwise, any existing transportation systems, or engage in the operation of a transportation system as provided under this act, until it has met the requirements for recording and filing of the plan of integrated operation as provided herein: Provided, however, That the authority may enter into option agreements with any existing transportation systems for the purchase, lease or operation thereof, subject to the final approval of the plan of operation by the county council: Provided further, That nothing in this section, including the foregoing proviso clause, shall prevent, limit, restrict or interfere with in any way an undertaking or joining by the authority of any demonstration, test or experimental project relevant to, and necessary for, the establishment of an integrated transportation system or of any demonstration, test or experimental project that may be required, or advisable, to establish the feasibility of a transportation system.

Upon the recording of the plan of operation, any law to the contrary notwithstanding, the authority shall have exclusive jurisdiction with respect to all matters regarding its transportation system within the service area as set forth in the plan of operation or as from time to time changed as in this section: Provided, That if the authority shall at any time desire to abandon or change any portion of a transportation system outside the territorial limits of the county incorporating the authority, the approval for such abandonment or change must be secured by the authority from the Public Utility Commission.

All group and party services provided by the authority outside the service area under rights acquired by it pursuant to this act shall be subject to the regulation by the Public Utility Commission.

(13.1 amended June 13, 2012, P.L.619, No.61)

Section 13.2. (a) The authority through its boards shall deal with and enter into written contracts with the employes of the authority through accredited representatives of such

employees or representatives of any labor organization authorized to act for such employees concerning wages, salaries, hours, terms and conditions of employment, and pension or retirement provisions. Collective bargaining and the employer-employee relations of the authority and its public employees shall not be subject to or governed by the terms and provisions of the act of November 27, 1967 (P.L.628, No.288), entitled "An act protecting the rights of employees of existing transportation systems which are acquired by cities of the third class or any authority thereof or certain joint authorities; requiring cities of the third class or any authority thereof or any such joint authority to enter into contracts with labor organizations acting for such employees, and providing for arbitration in case of disputes."

(b) It shall be the duty of the authority and the authorized representative to exert every reasonable effort to settle all disputes by engaging in collective bargaining in good faith and by entering into settlements by way of written agreements and maintaining the same.

(c) The authority shall not be required to bargain over matters of inherent managerial policy, which shall include, but shall not be limited to, such areas of discretion or policy as the functions and programs of the authority, standards of services, its overall budget, utilization of technology, the organizational structure and selection and direction of personnel. The authority, however, shall be required to meet and discuss on policy matters affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request by the authorized representative.

(d) First-level supervisors shall not be included in bargaining units with other employees of the authority. Incumbents holding first-level supervisory positions on the effective date of this subsection will be given the opportunity to continue in represented status or to terminate their bargaining unit status. Those who choose to continue in represented status shall retain the individual right to terminate their bargaining unit status at any time. All newly appointed first-level supervisors shall not be included in bargaining units with other employees of the authority. "First-level supervisor" shall mean the lowest level at which an employe functions as a supervisor. For the purposes of this section "supervisor" shall mean any individual having authority in the interests of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances; or, to a substantial degree, effectively recommend such action, if, in connection with the foregoing, the exercise of such authority is not merely routine or clerical in nature, but calls for the use of independent judgment. In the event that an employe in a position defined as a "first-level supervisor" is removed from his or her position due to a layoff or other reduction in force, such employe may elect to return to the position he or she held immediately prior to becoming a "first-level supervisor." In all cases, such job placement will be made in accordance with full seniority.

(e) Collective bargaining shall commence at least one hundred days prior to the expiration of a collective bargaining agreement.

(f) In the case of any labor dispute where collective bargaining does not result in an agreement, the dispute, with the written consent of both parties, shall be submitted to final and binding interest arbitration. The board of arbitration shall

be composed of three persons, one appointed by the authority, one appointed by the labor organization representing the employes and a third member to be agreed upon by the labor organization and the authority. The member selected by the labor organization and the authority shall act as chairman of the board. The determination of the majority of the board of arbitration thus established shall be final and binding on all matters in dispute. If, after a period of ten days from the date of the appointment of the two arbitrators representing the authority and the labor organization, the third arbitrator has not been selected, then either arbitrator may request the American Arbitration Association to furnish a list of five persons from which the third arbitrator shall be selected. The arbitrators appointed by the authority and the labor organization, promptly, after the receipt of such list, shall determine, by lot, the order of elimination, and, thereafter, each shall, in that order alternately, eliminate one name until only one name remains. The remaining person on the list shall be the third arbitrator. All contract provisions shall remain status quo during the period of arbitration, and there shall be no lockouts, strikes or other interference with or interruption of transit operations during the arbitration proceedings or during any action which may be instituted to upset the arbitration award. The term "labor dispute" shall include any controversy regarding written provisions of a collective bargaining agreement between the parties concerning wages, salaries, hours, terms and conditions of employment or benefits, including health and welfare, sick leave insurance or pension or retirement provisions. The term "interest arbitration" shall mean formulation by a neutral arbitrator of provisions governing wages, hours of work and other terms and conditions of employment after consideration of proposals relating to wages, hours of work and other terms and conditions of employment advanced by the authority and the authorized representative of the employes of the authority. Each party shall pay one-half of the expenses associated with any arbitration which may be conducted pursuant to this subsection.

(g) If an agreement has not been reached within forty-five days of the termination date of the collective bargaining agreement, either party may, in writing, call upon the Pennsylvania Labor Relations Board to appoint a neutral fact-finder. The fact-finder may hold hearings and take oral or written testimony and shall have subpoena power. Collective bargaining may continue during fact-finding. In the event an agreement has not been reached by the expiration date of the collective bargaining agreement and fact-finding has not previously been requested, both parties shall immediately, in writing, call upon the Pennsylvania Labor Relations Board to appoint a neutral fact-finder. The fact-finder may hold hearings and take oral or written testimony and shall have subpoena power. Collective bargaining may continue during fact-finding.

(h) The Commonwealth shall pay one-half of the cost of fact-finding; the remaining one-half of the cost shall be divided equally between the parties. The Pennsylvania Labor Relations Board shall establish rules and regulations under which the fact-finder shall operate.

(i) The findings of facts and recommendations shall be sent by registered mail to the Pennsylvania Labor Relations Board and to both parties not more than forty-five days after the appointment of the fact-finder.

(j) Not more than fifteen days after the findings and recommendations shall have been sent, the parties shall notify

the Pennsylvania Labor Relations Board and each other whether or not they accept the recommendations of the fact-finder, and, if they do not, the fact-finder shall publicize his findings and recommendations.

(k) If the authority and the authorized representative of the employes of the authority do not accept the recommendations of the fact-finder and refuse to mutually agree to final and binding interest arbitration in accordance with subsection (f), the employes shall have the right to strike in regard to that dispute, and such strike shall not be prohibited unless or until such a strike creates a clear and present danger or threat to the health, safety or welfare of the public: Provided, That such strike shall not be prohibited on the grounds that it creates a clear and present danger or threat to the health, safety or welfare of the public unless the court's order granting relief further mandates that both parties submit the labor dispute to final and binding interest arbitration by a board of arbitration under the provisions of this section. No party, other than the authority, shall have any standing to seek any relief in any court of this Commonwealth under this subsection.

(l) Notwithstanding the provisions of subsection (k), no strike shall be permitted until the completion of a thirty-day "cooling-off" period, commencing immediately following the termination of the collective bargaining agreement, during which time the parties may reevaluate their respective positions. Nothing herein contained shall prohibit fact-finding during the "cooling-off" period.

(m) Although the arbitrators may consider any factors deemed to be relevant, the arbitrators shall consider and give weight primarily to, and describe in the award, the impact of the following factors in determining the award:

(1) The ability of the authority to maintain levels of transit service sufficient to serve the service area.

(2) The appropriated amounts of Federal, State and county operating subsidies.

(3) The amount, if any, of any fare increase and/or additional public subsidy which would be necessary to fund the economic cost increase (including, but not limited to, increases in wages, pensions and other fringe benefits) and the ability of the public to bear such a fare increase, with consideration given to the per capita income of persons in the service area and the impact upon future ridership levels.

(4) A comparison between the overall wage, salary and fringe benefit levels of the authority's represented employes and other workers in the public and private sectors of the metropolitan area who perform similar work.

(5) A comparison of the hours and working conditions of the authority's represented employes and other workers in the public and private sectors of the metropolitan area who perform work requiring similar skills.

(6) The cost of consumer goods and services within the metropolitan area.

(7) Any stipulation entered into between the authority and the authorized representative.

(n) No employe of the authority shall engage in any strike, walkout or other concerted cessation or curtailment of work, and no authorized representative of employes of the authority shall cause, instigate, encourage, promote or condone any strike, slowdown, walkout or other concerted cessation or curtailment of work by any employe of the authority where, in either case, such action is taken in support of any labor

dispute involving the formulation of any contract provisions until fifteen days following the issuance of the fact-finder's report.

(o) The authority shall submit disputes involving the interpretation of specific provisions of collective bargaining agreements, including formal written supplemental understandings and agreements directly related to contract provisions, in effect from time to time, to grievance arbitration. In any grievance arbitration, the arbitrator must base the award upon the express terms and conditions of a labor agreement between the authority and the authorized representative. Each party shall pay one-half of the expenses associated with any arbitration which may be conducted pursuant to this subsection.

(p) If the authority or the authorized representative refuses to submit to the procedures set forth in this section, such refusal shall be deemed a refusal to bargain in good faith, and unfair practice charges may be filed by the submitting party, or the Pennsylvania Labor Relations Board may, on its own, issue an unfair practice complaint and conduct such hearings and issue such orders as provided by law.

(13.2 amended July 2, 1986, P.L.309, No.76)

Section 13.2A. Notwithstanding any provision of law to the contrary, either party to a collective bargaining agreement between the board and its employees shall respond, in writing, to any written offer of the other party within fifteen days of receipt of the written offer.

(13.2A added July 2, 1986, P.L.309, No.76)

Section 13.2B. Notwithstanding any provision of law to the contrary, the board shall not have the power to hire or employ replacement workers in the event of work stoppages based on unfair labor practices or economic conditions.

(13.2B added July 2, 1986, P.L.309, No.76)

Section 13.3. (a) The authority shall have the power to purchase equipment such as cars, trolley buses, motor buses, railroad equipment and all types of transportation equipment and may execute agreements, leases and equipment trust certificates, in the form customarily used in such cases, appropriate to effect such purchase and may dispose of such equipment trust certificates. All money required to be paid by the authority under the provisions of such agreements, leases and equipment trust certificates shall be payable solely from the revenue or income to be derived from the transportation system and from grants and loans. Payment for such equipment or rental therefor may be made in installments and the deferred installments may be evidenced by equipment trust certificates payable solely from such revenue or income and title to such equipment shall not vest in the authority until the equipment trust certificates are paid.

(b) The agreement to purchase may direct the vendor to sell and assign the equipment to a bank or trust company duly authorized to transact business in the Commonwealth as trustee for the benefit and security of the equipment trust certificates and may direct the trustee to deliver the equipment to the authority and may authorize the trustee, simultaneously therewith, to execute and deliver a lease of the equipment to the authority. Such equipment trust certificates shall be authorized by resolution of the board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust certificates from the revenue or income to be derived from the transportation system. The covenants, conditions and provisions of the agreements, leases and equipment trust certificates shall

not conflict with any of the provisions of any trust agreement securing the payment of bonds of the authority.

(13.3 added Oct. 7, 1959, P.L.1266, No.429)

Section 13.4. (13.4 repealed Apr. 28, 1978, P.L.202, No.53)

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

(13.5 added Oct. 7, 1959, P.L.1266, No.429)

Section 13.6. (a) Notwithstanding any other provision of this act, the Public Utility Commission shall have sole and exclusive jurisdiction over an entity, other than:

(1) an authority created under this act; or

(2) a transportation system operated by or for an authority created under this act

which seeks to provide transportation services within a service area if the transportation services would otherwise be subject to the jurisdiction of the Public Utility Commission.

(b) Except as otherwise provided in this act, the Public Utility Commission shall have no jurisdiction over an authority created under this act, and may not grant a certificate of public convenience for a transportation system operated by or for, or for services provided by or for, such an authority.

(13.6 added June 13, 2012, P.L.619, No.61)

Section 13.7. Within one year of the effective date of this section and by March 31 of each year thereafter, each authority created under this act shall file a report with the Consumer Protection and Professional Licensure Committee of the Senate, the Transportation Committee of the Senate, the Consumer Affairs Committee of the House of Representatives and the Transportation Committee of the House of Representatives concerning at least all of the following:

(1) The budget of the authority.

(2) The annual aggregate revenues of the authority.

(3) The number of employes of the authority.

(4) The status of any labor agreement or negotiations, to the extent not otherwise prohibited by law or a duly asserted privilege.

(5) The annual aggregate revenue generated by transportation service provided by the authority.

(6) The annual aggregate ridership of the transportation service provided by the authority.

(7) The annual revenues of each transportation service provided by the authority.

(8) The annual ridership of each transportation service provided by the authority.

(9) The annual aggregate revenue generated by port activities provided by the authority.

(10) The annual aggregate use of port activities provided by the authority.

(13.7 added June 13, 2012, P.L.619, No.61)

Section 14. The provisions of this act shall be severable, and if any of the provisions thereof shall be held to be unconstitutional, such decision shall not affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included therein.

Section 15. (a) The Department of Transportation shall study the consolidation of the authority with other local transportation organizations within geographical proximity as a means of reducing annual expenses or increasing annual revenues. The study shall examine the creation of service

regions to determine whether consolidation would reduce annual expenses or increase annual revenues.

(b) The department shall study the potential privatization of authority services as a means of reducing annual expenses or increasing annual revenues.

(c) The department shall submit a report on its findings and recommendations to the Governor, the General Assembly and the authority within two hundred seventy days of the effective date of this section.

(15 added July 18, 2013, P.L.605, No.72)