

AUTHORITIES OF SECOND CLASS COUNTIES TO ACCEPT FEDERAL FUNDS
Act of Dec. 27, 1933, Special Session 1, P.L. 114, No. 30 Cl. 16
Special Session No. 1 of 1933
No. 1933-30

AN ACT

Providing for the creation of public "Authorities" in counties of the second class; authorizing such "Authorities" to enter into agreements with the Government of the United States, particularly as they relate to the National Industrial Recovery Act and any amendment and supplements thereto, the Commonwealth of Pennsylvania and political subdivisions and municipalities thereof, and with others; defining and providing for the organization and dissolution of such "Authorities"; conferring certain rights, powers, duties and immunities upon them and their officers and members; prescribing the conditions upon which such "Authorities" may exercise their powers; endowing such "Authorities" with the right of eminent domain, and with the power to finance projects by the issuance and sale of bonds; authorizing such "Authorities" to make and receive appropriations; repealing certain acts and parts of acts inconsistent herewith; and for other purposes.

ARTICLE I

Section 1. Be it enacted, &c., That in each county of the second class of this Commonwealth, there is hereby created a body corporate and politic to be known as the "Authority" of said county (hereafter in this act called the "Authority"); provided, however, that such "Authority" shall not become operative nor transact any business until and unless the board of county commissioners of the county in which it is created shall, by proper resolution, declare its creation, and appoint and designate the members thereof, as in this act herein prescribed. Such "Authority" shall constitute a public body corporate and politic of said county for the public purposes herein set forth and shall exercise an essential governmental function in effectuating such purposes, and, to that end, said "Authority" shall be endowed with, and is hereby granted, the following powers, to-wit:

(a) To construct, maintain and operate bridges, tunnels, streets, highways, traffic distribution centers, traffic circles, airports, hangars, parkways, recreation grounds and facilities, public parks, swimming pools, lakes, dams, and parts of any of said projects, and improvements thereof and additions thereto, and to charge and collect fees, tolls, rentals and charges in connection with any or all of said structures, projects, additions or improvements, and any or all parts thereof; the proceeds therefrom to be used for the purpose of maintaining and operating the same and of repaying to the United States Government, and to others, any and all monies, and interest thereon, which may have been borrowed therefrom in connection with the purposes for which said "Authority" was created, as same may be due and payable.

(b) To enter into any contract or contracts with any street railway company, telegraph company, telephone company, or other corporation or person or persons desiring to make use of any of the projects constructed or maintained pursuant to the purposes for which said "Authority" has been created, and, under the provisions of this act, for the concurrent use of such portion of any of said projects as shall not substantially

impair or restrict the public use and enjoyment thereof, upon such rates, terms, and conditions as shall be agreed upon, or to charge tolls or rentals for such special use; provided, however, that such rates, terms, and conditions shall in no instance be less than the rates, terms, and conditions paid and met for like rights, service, and privileges within said county.

(c) To construct and maintain, or to lease the right to construct and maintain, roads, highways, bridges, tunnels, water mains for park purposes where none is now provided and available, and other mechanical equipment and appliances appropriate, proper and necessary in connection with the construction, operation and use of the aforementioned projects by the public, on, over, under, along, across or through any land, and between any points, which may be necessary for the construction and maintenance of such projects and the carrying out of the purposes for which said "Authority" is created.

(d) To continue as a body corporate and politic for the time specified in this act.

(e) To sue and be sued, complain and defend, in its own name.

(f) To have a corporate seal, which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any manner reproduced.

(g) To purchase, take, receive, lease as lessee, take by gift, devise or bequest, or otherwise acquire, and to own, hold, use, and otherwise deal with any real or personal property, or any interest therein, situated in the county in which said "Authority" is created and set up, which may be appropriate to enable it to accomplish fully and properly its purpose or purposes.

(h) To sell and convey, lease as lessor, and otherwise dispose of all or any part of its property and assets.

(i) To borrow money for any or all of the purposes for which it is organized, to issue its promissory notes, bonds, or other forms of certificates of indebtedness, with interest, as evidence thereof, and to secure any of its obligations by mortgage, pledge, or deed of trust of or on any of its property, franchises and income.

(j) To enter into any obligation necessary for the transaction of its ordinary affairs.

(k) To have and exercise all of the powers and means necessary or essential to effect the purpose or purposes for which the "Authority" is organized.

(l) To have and exercise the right and power of eminent domain for the acquisition of real property (the title thereto so acquired being title in fee simple) necessary for, and in connection with, the business of the "Authority" and for the purposes for which it was created, but not to assess, levy or collect any taxes of any kind or nature or for any purpose whatsoever; specifically, to borrow from the Government of the United States, or others, funds for the construction, maintenance and operation of the projects for which said "Authority" shall have been created; and to issue its negotiable bonds or other obligations, secured by mortgage and trust deed given therefor, and to provide for the rights of the holders thereof.

(m) To elect a chairman, vice-chairman, secretary and treasurer, and to adopt suitable by-laws for the management of its affairs. The secretary and treasurer need not be member or members of the "Authority".

(n) To appoint and designate such officers, agents and employes as it may require for the performance of its duties,

and fix and determine their qualifications, duties and compensation.

(o) To make rules and regulations for the management and regulations of its affairs.

(p) To enter upon any lands, waters and premises, within the county in which said "Authority" is created and set up, for the purpose of making surveys, soundings and examinations.

(q) To determine the exact location, system and character of, and all other matters in connection with, any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate or control.

(r) To exercise such other powers, not inconsistent with the Constitution of this Commonwealth or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and, generally, to exercise, in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

(s) To dissolve and wind up the "Authority"; and specifically, when, as, and if, all indebtedness to the United States and all other proper and lawful indebtedness of the "Authority" shall have been fully paid, it shall be the duty of the "Authority," through appropriate action of its officers and members, to convey and transfer in fee simple, free and clear of all debts, liens, encumbrances and obligations whatsoever, to the county in which said "Authority" shall have been created and set up, all of the projects, improvements, structures and operations constructed, erected, acquired or maintained by said "Authority" during the period of its corporate existence, and any and all monies, contracts, bills and notes receivable, leases, franchises, and all other property, whether real or personal, of the "Authority"; to render to said county, by its proper officers, full and complete account of all the transactions and business of the "Authority"; and to dissolve and wind up its affairs and thereafter cease entirely to exist.

ARTICLE II

Section 201. Whenever the county commissioners of any county of the second class shall desire to form an "Authority" under this act, they shall adopt a resolution signifying their intention so to do.

Section 202. The county commissioners of such county shall cause a notice of the resolution to be published, at least one time, in the legal periodical of the county in which the "Authority" is to be formed, and, at least one time, in one newspaper of general circulation published in the county. The said notice shall contain a brief statement of the substance of the resolution, making reference to this act, and shall state that on a day certain, not less than three days after publication of the said notice, articles of incorporation of the proposed "Authority" will be filed with the Secretary of the Commonwealth.

Section 203. On or before the day fixed for the notice above provided for, the county shall file with the Secretary of the Commonwealth articles of incorporation, together with proof of the advertisement required by the preceding section. If the Secretary of the Commonwealth finds that the articles of

incorporation conform to law, he shall forthwith, but not prior to the day specified in the notices required by the preceding section, endorse his approval thereon, and, when all proper fees and charges have been paid, shall file the articles and issue a certificate of incorporation, to which shall be attached a copy of the approved articles. The articles, upon being approved and filed by the Secretary of the Commonwealth, shall constitute the charter of the "Authority."

Section 204. The articles of incorporation shall be executed by each incorporating county by its county commissioners and under its county seal, and shall be acknowledged on behalf of each county by its county commissioners.

Section 205. The articles of incorporation shall set forth:

(a) The name of the "Authority."

(b) A statement that an "Authority" is formed under this act.

(c) The name of the incorporating county, together with the names and addresses of its county commissioners, and the chief clerk of the board of county commissioners.

Section 206. Upon the issuance of the certificate of incorporation by the Secretary of the Commonwealth, the "Authority's" existence shall begin. The certificate of incorporation shall be conclusive evidence of the fact that the "Authority" shall be incorporated, but proceedings may be instituted by the Commonwealth to dissolve, wind up and terminate an "Authority" which should not have been formed under this act, or which had been formed without a substantial compliance with the conditions prescribed by this act as precedent to incorporation.

ARTICLE III

Section 301. The "Authority" shall consist of three members, all of whom shall be citizens of this Commonwealth and of the county in which said "Authority" is created and set up, and who shall be designated and appointed by the county commissioners. All members shall continue to hold office until their respective successors are appointed and qualified.

Section 302. The members shall have entire charge of the "Authority's" property and affairs, and shall, for the purpose of doing business, constitute a board, but no action of the board shall be binding unless a majority of the members of the "Authority" shall vote in favor thereof.

Section 303. The salary or compensation of the officers and members of the "Authority" shall be fixed and determined by the salary board of the county in which said "Authority" is created and set up, but none of such salaries or compensation shall be increased or diminished during the term for which the officer or member receiving the same shall have been appointed.

Section 304. Vacancies in the office of president, vice-president, secretary or treasurer, caused other than by expiration of term, shall be filled by election by the members of the "Authority." Vacancies in the membership of the "Authority" shall be filled by appointment by the county commissioners of the county in which said "Authority" is created and set up.

ARTICLE IV

Section 401. If for any of its authorized purposes the "Authority" shall find it necessary or convenient to acquire any real property in the county in which said "Authority" is

created and set up, whether for immediate or future use, the "Authority" may find and determine that such property, whether a fee simple absolute or a lesser interest, is required for public use, and, upon such determination, may have and may exercise the right and power of eminent domain to acquire the same. However, no property, now or hereafter vested in or held by any county, city, borough, township, political subdivision or other municipality, shall be taken by the "Authority" without the consent of such political subdivision or municipality unless expressly authorized by this act, and neither shall any property of a public service company be taken except such property as can now be taken by the county commissioners under existing laws.

If the "Authority" is unable to agree with the owner or owners thereof upon terms for the acquisition of any such real property in the county in which said "Authority" is created and set up, for any reason whatsoever, then the "Authority" may acquire such real property in the manner provided for the acquisition of such property by counties of the second class in the exercise of the right of eminent domain.

The power of the "Authority" to acquire real property by condemnation or the exercise of the power of eminent domain, in the county in which said "Authority" is created and set up, shall be a continuing power, and no exercise thereof shall be deemed to exhaust it.

The "Authority," and its duly authorized agents and employes, may enter upon any land in the county in which said "Authority" is created and set up for the purpose of making such surveys, maps or other examinations thereof as it may deem necessary or convenient for its authorized purposes.

All counties, cities, boroughs, townships, and other political subdivisions and municipalities, and all public agencies and commissions of the Commonwealth of Pennsylvania, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the "Authority," upon its request, upon such terms and conditions as the proper authorities of such counties, cities, boroughs, townships, political subdivisions or other municipalities may deem reasonable and fair, and without the necessity for any advertisement, order of court, or other action or formality other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the "Authority," including real property already devoted to public use.

The term "real property," as used in this act, includes lands, structures, franchises, and interests in land, including lands under water and riparian rights, and any and all things and rights usually included within the said term, and includes not only fees simple absolute, but also any and all lesser interests such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments, and every estate, interest or right, legal or equitable, including terms of years and liens thereon by way of judgments, mortgages, or otherwise, and also claims for damage to real estate.

Section 402. All contracts shall be let and purchases made by the "Authority" in the manner now provided by law relating to contracts and purchases by county commissioners in counties of the second class.

ARTICLE V

Section 501. Notwithstanding any provisions of this act, the "Authority" shall have no power to pledge the credit of the Commonwealth of Pennsylvania or the credit of any county, city, borough, township or other municipality of said Commonwealth, or to create any debt of said Commonwealth or of such municipality, county, city, borough or township, and the bonds and debts of said "Authority" shall be a lien upon and payable solely from the assets and revenues of said "Authority."

Section 502. The "Authority," within sixty days after the first day of January each year, shall cause a complete audit of its affairs to be made by a firm of certified public accountants, approved by the county commissioners of the county in which said "Authority" is created and set up, and shall furnish a copy thereof to the said county commissioners, the Federal Emergency Administration of Public Works, and, if desired, to the trustee under any mortgage or deed of trust given to secure any bonds issued by the "Authority."

Section 503. Before entering upon the duties of office, the treasurer of the "Authority" shall furnish a bond, with at least one corporate surety or three individual sureties, in an amount not less than one hundred per centum of the estimated amount of the largest sum which will probably be in the treasurer's hand at one time during the succeeding year. Such bonds shall be conditioned for the safe-keeping of the moneys of the "Authority" and faithful performance of the treasurer's duties.

In lieu of furnishing surety bond as above provided, the treasurer may pledge, with any bank, trust company, or bank and trust company in Pennsylvania which may be agreed upon, securities to guarantee safe-keeping of the funds of the "Authority" and faithful performance of his or its duties. The securities, so pledged, shall have a market value of not less than one hundred twenty per centum of the estimated amount of the largest sum which will probably be in the hands of the treasurer at one time during the succeeding year. The "Authority" shall have the right to require the pledging of additional securities if, and when, the securities already pledged shall become depreciated below said value. All securities, so pledged, shall be accompanied by proper assignments or powers of attorney for their transfer.

ARTICLE VI

Section 601. The "Authority" is hereby authorized to make and enforce such rules and regulations, and to establish, levy and collect (or to authorize, by contract, franchise, lease or otherwise, the establishment, levying and collection of) such tolls, rents, rates, fees and other charges in connection with any properties which it may construct, erect, acquire, own, operate or control as it may deem necessary, proper, desirable and reasonable, which said tolls, rents, rates, fees and other charges shall be at least sufficient to meet the expenses thereof, including the cost of maintenance and operation thereof and interest and sinking fund or amortization charges; and the "Authority" is hereby authorized and empowered to pledge such tolls, rates, rents, fees and other revenues, or any part thereof, either presently received or to be received in the future, or both, as security for the repayment, with interest and taxes, if any, of any monies borrowed by it or advanced to it for any of its authorized purposes, and as security for the satisfaction of any other obligation assumed by it in connection with such loans or advances.

ARTICLE VII

Section 701. The Commonwealth of Pennsylvania, and all municipalities and political subdivisions thereof, so long as any bonds or other securities or obligations of the "Authority" remain outstanding and unpaid, and unless and until adequate provision is made by law for the protection of those advancing money upon obligations, shall not diminish or impair the power of the "Authority" to own, operate or control its properties and facilities, or to establish, levy and collect tolls, rents, rates, fees and other charges in connection with such properties or facilities.

ARTICLE VIII

Section 801. The effectuation of its authorized purposes by the "Authority" is and will be in all respects for the benefit of the people of the Commonwealth of Pennsylvania 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 governmental functions in effectuating said purposes, the "Authority" shall not be required to pay any taxes or assessments upon any property acquired or used by it for such purposes, and the bonds or other securities or obligations 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 within the Commonwealth of Pennsylvania.

ARTICLE IX

Section 901. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein.