

PUBLIC AUDITORIUM AUTHORITIES LAW
Act of Jul. 29, 1953, P.L. 1034, No. 270
AN ACT

Cl. 64

Creating as bodies corporate and politic "Public Auditorium Authorities" in counties of the second class and in cities of the second class and in cities of the second class A and counties in which a city of the second class A is located, singly or jointly; prescribing the rights, powers and duties of such Authorities; authorizing such Authorities to acquire, construct, improve, maintain and operate public auditoriums; to borrow money and issue bonds therefor; providing for the payment of such bonds and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; empowering such Authorities to enter into contracts, leases and licenses with and to accept grants from private sources, the Federal Government, State, political subdivisions of the State or any agency thereof; authorizing the making of said grants from bond funds or current revenues; authorizing Authorities to collect rentals, admissions, license fees for the use of the project; exempting the property and securities of such Public Auditorium Authorities from taxation. (Title amended July 10, 1984, P.L.706, No.149)

Compiler's Note: Section 10 of Act 85 of 2000 provided that Act 270 is repealed insofar as it relates to counties of the second class in which a city of the second class is located and to any city of the second class which is located in a county of the second class.

Compiler's Note: Section 1 of Act 165 of 1970 provided that the limits heretofore imposed by Act 270 upon the rates of interest and interest costs permitted to be paid upon bonds, obligations and indebtedness issued by the Commonwealth or its agencies or instrumentalities or authorities, and by local political subdivisions or their agencies or authorities, are hereby removed for such bonds, obligations or indebtedness.

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

Section 1. Short Title.

This act shall be known and may be cited as the "Public Auditorium Authorities Law."

Section 2. Definitions.

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

(a) The term "Authority" shall mean a body politic and corporate created pursuant to this act.

(b) The term "Board" shall mean the governing body of the Authority.

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

(d) The term "city" shall mean city of the second class or a city of the second class A. ((d) amended July 10, 1984, P.L.706, No.149)

(e) 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.

(f) The term "county" shall mean county of the second class or any county in which a city of the second class A is located. ((f) amended July 10, 1984, P.L.706, No.149)

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

(h) The term "improvement" shall mean and include enlargement and improvement and the term "to improve" shall mean and include to enlarge and to improve, all in such manner as may be deemed desirable.

(i) The term "municipality" shall mean any county, city, town, borough, township or school district of the Commonwealth of Pennsylvania.

(j) The term "municipal authorities" shall mean the Board of County Commissioners of the county or the council of the city.

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

(l) The term "project" shall mean any structure, facility or undertaking which the Authority is authorized to acquire, construct, improve, maintain or operate under the provisions of this act.

(m) The term "public auditorium" shall mean any structure appropriate for large public assemblies, the holding of conventions, sporting tournaments, athletic contests and exhibitions, musical and dramatic performances and other business, social, cultural, scientific and recreational events and all facilities necessary or incident thereto, including provisions for adequate off-street parking. Nothing herein contained shall be construed to prohibit the constructing, on sites acquired adjacent to and in connection with such structures and facilities, of improvements, buildings and other structures for the purpose of producing revenues to assist in defraying the costs of operation, maintenance, and debt service of the project. ((m) amended Aug. 17, 1965, P.L.352, No.186)

Section 3. Method of Incorporation.

A. Whenever the municipal authorities of any county or of any city, singly or jointly (including a county-city joinder), shall desire to organize an Authority under this act, they shall adopt a resolution or ordinance signifying their intention to do so. Thereafter, the municipal authorities of such county or city shall cause a notice of such resolution or ordinance to be published at least one time in the legal periodical of the county or counties in which such Authority is to be organized and at least one time in a newspaper published and of general circulation in such county or counties. Said notice shall contain a brief statement of the substance of said resolution or ordinance, including the substance of the proposed articles of incorporation, making reference to this act, and shall state that on a day certain, not less than three days after publication of said notice, articles of incorporation of the proposed Authority will be filed with the Secretary of the Commonwealth of Pennsylvania. No county or city shall be required (any law to the contrary notwithstanding) to make any other publication of such resolution or ordinance under the provision of existing law. The aforesaid publication of such notice shall be sufficient compliance with such laws.

B. On or before the day specified in said notice, the municipal authorities shall file with the Secretary of the Commonwealth articles of incorporation, together with proof of publication of the notice as aforesaid. Said articles of incorporation shall set forth:

(a) The name of the "Authority";

(b) A statement that such Authority is formed under this act;

(c) The name of the incorporating city or county, together with the names and addresses of its municipal authorities; and

(d) The names, addresses and term of office of the first members of the board of said Authority.

If a joint Authority, the articles shall specify which members are to be appointed by the respective county or city.

All of which matter shall be determined in accordance with the provisions of this act. Said articles of incorporation shall be executed by each incorporating city or county by its proper officers and under its municipal seal.

C. 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 aforesaid notice, 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. Upon the issuance of such certificate of incorporation by the Secretary of the Commonwealth, the corporate existence of said Authority shall begin. Said certificate of incorporation shall be conclusive evidence of the fact that such Authority has been incorporated, but proceedings may be instituted by the Commonwealth to dissolve any Authority which shall have been formed without substantial compliance with the provisions of this section.

D. When the Authority has been organized and its officers elected, the secretary shall certify to the Secretary of the Commonwealth the names and addresses of its officers as well as the principal office of the Authority. Any change in the location of the principal office shall likewise be certified to the Secretary of the Commonwealth within ten (10) days after such change.

Section 4. Amendment of Articles.

A. An Authority, in the manner hereinafter provided, may from time to time amend its articles:

(1) To adopt a new name.

(2) To add a provision therein increasing its term of existence to a date not exceeding fifty years from the date of approval of the articles of amendments or to modify any provision thereof limiting its terms of existence by increasing such term to such a date.

(3) To reapportion the representation on the board of the Authority and to revise the terms of office of such members, all in such manner as shall not be inconsistent with the provisions of section eight of this act.

B. Every amendment to the articles shall first be proposed by the board by the adoption of a resolution setting forth the proposed amendment and directing that it be submitted to the municipal authorities of the county or city composing the Authority. The resolution shall contain the language of the proposed amendment to the articles by providing that the articles shall be amended so as to read as therein set forth in full, or that any provision thereof be amended so as to read as therein set forth in full, or that the matter stated in the resolution be added to or stricken from the articles. After the amendments have been submitted to the county or city, such county or city shall adopt or reject such amendment by resolution or ordinance.

C. After an amendment has been adopted by the county or city, articles of amendment shall be executed under the seal of the Authority and verified by two duly authorized officers of the corporation and shall set forth:

(1) The name and location of the registered office of the Authority;

(2) The act of Assembly under which the Authority was formed and the date when the original certificate of incorporation was issued;

(3) The resolution or ordinance of the county or city adopting the amendment;

(4) The amendment adopted by the county or city, which shall be set forth in full.

D. The Authority shall advertise its intention to file articles of amendment with the Secretary of the Commonwealth in the manner prescribed in section three of this act in the case of the formation of an Authority. Advertisements shall appear at least three days prior to the day upon which the articles of amendment are presented to the Secretary of the Commonwealth and shall set forth briefly:

(1) The name and location of the registered office of the Authority;

(2) A statement that the articles of amendment are to be filed under the provisions of this act;

(3) The nature and character of the proposed amendment;

(4) The time when the articles of amendment will be filed with the Secretary of the Commonwealth.

E. The articles of amendment and proof of the advertisement heretofore required shall be delivered by the Authority or its representative to the Secretary of the Commonwealth. If the Secretary of the Commonwealth finds that such articles conform to law, he shall forthwith, but not prior to the day specified in the advertisement required heretofore, endorse his approval thereon, and when all fees and charges have been paid shall file the articles and issue to the Authority or its representative a certificate of amendment to which shall be attached a copy of the approved articles.

Section 5. Purposes and Powers; General.

A. Every Authority incorporated under this act shall be a public body, corporate and politic, exercising public powers of the Commonwealth as an agency thereof, and shall be for the purpose of acquiring, holding, constructing, improving, maintaining and operating, owning, leasing, either in the capacity of lessor or lessee, public auditoriums, the purpose and interest of this act being to benefit the people of the Commonwealth by, among other things, increasing their commerce and prosperity and promoting their educational, cultural, physical, civic, social and moral welfare.

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

(a) To have existence for a term of fifty years and for such further period or periods as may be provided in articles of amendment approved under section four hereof.

(b) To sue and be sued, implead and be impleaded, complain and defend in all courts.

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

(d) To acquire, purchase, hold, receive, 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 purpose of the Authority, and to sell, lease as lessor, permit the use of, transfer and dispose of any property or interest therein or any project or part thereof, at any time acquired or constructed by it.

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

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

(g) To appoint agents, employees and servants, to prescribe their duties and to fix their compensation.

(h) To fix, alter, charge and collect rentals, admissions, license fees and other charges for the purpose of providing for the payment of the expenses of the Authority, the construction, improvement, repair, maintenance and operation of its facilities and properties, the payment of the principal of and interest on its obligations and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations or with the incorporating county or city.

(i) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations (herein called "bonds") of the Authority, said bonds to have a maturity date not longer than forty years from the date of issue, except that no refunding bonds shall have a maturity date later than the life 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 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.

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

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

Commonwealth of Pennsylvania, municipality, private person, association, partnership, corporation or Authority created under this or any other act of the General Assembly of Pennsylvania.

(l) To have the power of eminent domain.

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

(n) To do all acts and things necessary or convenient 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.

(o) To enter into contracts of group insurance for the benefit of its employees and to set up a retirement or pension fund for such employees.

C. The 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.

Section 6. Purposes and Powers; Bonds.

A. (1) The bonds of any Authority hereinabove referred to and authorized to be issued shall be authorized by resolution of the board thereof and shall be of such series, bear such date or dates, mature at such time or times not exceeding forty years from their respective dates, bear interest at such rate or rates payable semi-annually, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such registration exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption not exceeding one hundred five per cent of the principal amount thereof, and be entitled to such priorities in the revenues or receipts of such 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. Any such bonds may be issued and delivered notwithstanding that one or more of the officers signing such bonds or the treasurer whose facsimile signature shall be upon the coupon or any thereof shall have ceased to be such officer or officers at the time when such bonds shall actually be delivered.

(2) Said bonds may be sold at public or private sale for such price or prices as the Authority shall determine. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the Authority may determine.

(A amended July 10, 1984, P.L.706, No.149)

B. Any resolution or resolutions authorizing any bonds may contain provisions, which shall be part of the contract with the holders thereof, as to (a) pledging the full faith and credit of the Authority (but not of the Commonwealth of Pennsylvania or any political subdivision thereof) for such obligations or restricting the same to all or any of the revenues of the Authority from all or any projects or properties, (b) the construction, improvement, operation, extension, enlargement, maintenance and repair of the project

and the duties of the Authority with reference thereto, (c) the terms and provisions of the bonds, (d) limitations on the purposes to which the proceeds of the bonds then or thereafter to be issued or of any loan or grant by the United States may be applied, (e) admissions, rentals and other charges for use of the facilities of the Authority, (f) the setting aside of reserves or sinking funds and the regulation and disposition thereof, (g) limitations on the issuance of additional bonds, (h) the terms and provisions of any deed of trust or indenture securing the bonds or under which the same may be issued, and (i) any other or additional agreements with the holders of the bonds.

C. Any Authority may enter into any deeds of trust, indentures or other agreements with any bank or trust company or other person or persons in the United States having power to enter into the same, including any Federal agency, as security for such bonds, and may assign and pledge all or any of the revenues or receipts of the Authority thereunder. Such deed of trust, indenture or other agreement may contain such provisions as may be customary in such instruments or as the Authority may authorize including (but without limitation) provisions as to (1) the construction, improvement, operation, maintenance and repair of any project and the duties of the Authority with reference thereto, (2) the application of funds and the investing and safeguarding of funds on hand or on deposit, including provisions for the investing and deposit of funds in or secured by such obligations as may be lawful for investment by executors, administrators, guardians, trustees and other fiduciaries under the laws of this Commonwealth, (3) the rights and remedies of said trustee and the holders of the bonds (which may include restrictions upon the individual right of action of such bondholders), and (4) the terms and provisions of the bonds or the resolutions authorizing the issuance of the same.

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

(C amended Aug. 17, 1965, P.L.352, No.186)

Section 7. Remedies of Bondholders.

A. The rights and the remedies herein conferred upon or granted to the bondholders shall be in addition to and not in limitation of any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds or by any deed of trust, indenture or other agreement under which the same may be issued. In the event that the Authority shall default in the payment of principal or interest on any of the bonds after the said principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the Authority shall fail or refuse to comply with the provisions of this act or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds then outstanding, by instrument or instruments filed in the office of the recorder of deeds of the county and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the bondholders for the purpose herein provided.

B. Such trustee and any trustee under any deed of trust, indenture or other agreement may, and upon written request of the holders of twenty-five per centum (or such other 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:

(a) 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 rents, rentals and other charges adequate to carry out any agreement as to or pledge of the revenues or receipts of the Authority and to require the Authority to carry out any other agreements with or for the benefit of the bondholders and to perform its and their duties under this act;

(b) bring suit upon the bonds;

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

(d) by action or suit in equity, enjoin any acts or things which may be unlawful or in violation of the right of the bondholders;

(e) 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.

C. The court of common pleas of the county shall have jurisdiction of any suit, action or proceedings by the trustee 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 enter and take possession of the facilities of the Authority or any part or parts thereof, the revenues 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 the 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 and receipts derived from the facilities of the Authority, the revenues and 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.

D. Nothing in this section or any other section of 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 whatever 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 shall direct, and no holder of bonds of the Authority nor any trustee shall ever have the right in any suit, action or proceedings, at law or in equity, to compel a receiver, nor shall any receiver ever be authorized or any court be empowered to direct the receiver,

to sell, assign, mortgage or otherwise dispose of any assets, of whatever kind or character, belonging to the Authority.

Section 8. Governing Body.

A. The powers of each Authority shall be exercised by a board composed of five members, all of whom shall be residents of the county organizing the Authority or the county wherein the city organizing the Authority is located. The municipal authorities of the county or the Mayor of the city shall appoint the members of the board, whose terms of office shall commence on the date of appointment, and one of whom shall serve for one year, one for two years, one for three years, and one for four years and one for five years, from the January first next succeeding the date of incorporation. Thereafter, whenever a vacancy has occurred or is about to occur by reason of the expiration of the term of any member, the said municipal authorities or Mayors, as the case may be, shall appoint a member of the board for a term of five years to succeed the member whose term has expired or is about to expire. Appointments, in the case of a joint county-city authority, shall be apportioned in the following manner: two members to be appointed by the municipal authority of the county; two members to be appointed by the Mayor of the city; and the fifth member to be appointed by concurring action of the municipal authority of the county and the Mayor of the city. Members of the board may be removed at the will of the appointing power, and, in the case of a joint county-city authority, the fifth member may be removed at will by either of the appointing powers.

B. Members shall hold office until their successors have been appointed and may succeed themselves. A member shall receive no compensation for his services but shall be entitled to the necessary expenses, including travelling expenses, incurred in the discharge of his duties. If a vacancy shall occur by reason of the death, disqualification, resignation or removal of a member, the appointing power shall appoint a successor to fill his unexpired term.

C. The members of the board shall select from among themselves a chairman, a vice-chairman and such other officers as the board may determine. The board may employ a secretary, an executive director, its own counsel and legal staff and such technical experts and such other agents and employes, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation of such persons. Three members of the board shall constitute a quorum for its meetings. 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 such Authority. 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. The board shall have full authority to manage the properties and 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.

Section 9. Moneys of the Authority.

All moneys of any Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Said moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts and each of such special accounts, to the extent the same is not insured, shall be continuously secured by a pledge

of direct obligations of the United States of America, of the Commonwealth or of the county or city creating the Authority, having an aggregate market value, exclusive of accrued interest, at all times, at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer or be held by a trustee or agent satisfactory to the Authority. All banks and trust companies are authorized to give such security for such deposits. The moneys in said accounts shall be paid out on the warrant or other order of the chairman of the Authority or of such other person or persons as the Authority may authorize to execute such warrants or orders. Every Authority shall have at least an annual examination of its books, accounts and records by a certified public accountant. A copy of such audit shall be delivered to the county or city creating the Authority. A concise financial statement shall be published annually at least once in a newspaper of general circulation in the county or city where the principal office of the Authority is located. If such publication is not made by the Authority, the county or city shall publish such statement at the expense of the Authority. If the Authority fails to make such an audit, then the controller, auditors or accountant designated by the county or city are hereby authorized and empowered from time to time to examine, at the expense of the Authority, the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its finances, operation and affairs.

The Attorney General of the Commonwealth of Pennsylvania shall have the right to examine the books, accounts and records of any Authority.

Section 10. Transfer of Existing Facilities or Funds and the Making of Annual Grants to Authority.

A. Any municipality or owner may and they are hereby authorized to sell, lease, lend, grant, convey, transfer or pay over to any Authority, with or without consideration, any project or any part or parts thereof, or any interest in real or personal property, or any funds available for building, construction or improvement purposes, including the proceeds of bonds previously or hereafter issued for building, construction or improvement purposes, which may be used by the Authority in the construction, improvement, maintenance or operation of any project, and any municipality is hereby empowered to issue general obligation bonds for the purpose of providing funds for the building, construction or improvement of a public auditorium and transferring said funds to an Authority created under this act.

B. Any municipality may and it is hereby authorized to make annual grants from current revenues to the Authority to assist in defraying the costs of operation, maintenance and debt service of the project and to enter into long term agreements providing for the payment of the same.

Section 11. Competition in Award of Contracts.

A. All construction, reconstruction, repairs or work of any nature made by any Authority, where the entire cost, value or amount of such construction, reconstruction, repairs or work, including labor and materials, shall exceed the base amount of \$18,500, subject to adjustment under subsection J, except construction, reconstruction, repairs or work done by employees of said Authority or by labor supplied under agreement with any Federal or State agency with supplies and materials purchased, as hereinafter provided, shall be done only under contract or contracts to be entered into by the Authority with the lowest

responsible bidder upon proper terms, after due public notice has been given asking for competitive bids hereinafter provided. No contract shall be entered into for construction or improvement or repair of any project or portion thereof unless the contractor shall give an undertaking, with a sufficient surety or sureties approved by the Authority and in an amount fixed by the Authority, for the faithful performance of the contract. All such contracts shall provide, among other things, that the person or corporation entering into such contract with the Authority will pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing such materials or rendering such services may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the Authority to construct, repair or improve any project or portion thereof or any addition, betterment or extension thereto directly by the officers, agents and employees of the Authority or otherwise than by contract.

B. All supplies and materials costing, subject to adjustment under subsection J, in excess of the base amount of \$18,500 or more shall be purchased only after due advertisement as hereinafter provided. The Authority shall accept the lowest bid or bids, kinds, quality and material being equal, but the Authority shall have the right to reject any or all bids or select a single item from any bid. The provisions as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a non-competitive market or solely by a manufacturer's authorized dealer.

B.1. Written or telephonic price quotations from at least three (3) qualified and responsible contractors shall be requested for all contracts that exceed the base amount of \$10,000, subject to adjustment under subsection J, but are less than the amount requiring advertisement and competitive bidding or, in lieu of price quotations, a memorandum shall be kept on file showing that fewer than three (3) qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation, the name of the contractor and the contractor's representative, the construction, reconstruction, repair, maintenance or work which was the subject of the quotation and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three (3) years.

C. The terms, advertisement or due public notice, wherever used in this section, shall mean a notice published at least ten (10) days before the award on any contract in a newspaper of general circulation published in the municipality where the Authority has its principal office, and if no newspaper is published therein then by publication in a newspaper in the county where the Authority has its principal office: Provided, That such notice may be waived where the Authority determines an emergency exists and such supplies and materials must be immediately purchased by the said Authority.

D. No member of the Authority or officer or employee thereof shall, either directly or indirectly, be a party to or be in any manner interested in any contract or agreement with the Authority for any matter, cause or thing whatsoever, by reason whereof any liability or indebtedness shall in any way be

created against such Authority. If any contract or agreement shall be made in violation of the provision of this section, the same shall be null and void and no action shall be maintained thereon against such Authority.

E. Subject to the aforesaid, any Authority may (but without intending by this provision to limit any powers of such Authority) enter into and carry out such contracts or establish or comply with such rules and regulations concerning labor and materials and other related matters, in connection with any project or portion thereof, as the Authority may deem desirable, or as may be requested by any Federal agency that may assist in the financing of such project or any part thereof: Provided, however, That the provisions of this section shall not apply to any case in which the Authority has taken over by transfer or assignment any contract authorized to be assigned to it under the provisions of section ten of this act, nor to any contract in connection with the construction of any project which the Authority may have had transferred to it by any person or private corporation.

F. 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."

G. An Authority shall not evade the provisions of this section as to advertising for bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under the base amount of \$18,500, subject to adjustment under subsection J, upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than the base amount of \$18,500, subject to adjustment under subsection J. This provision is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price or by making several simultaneous purchases or contracts each below said price, when in either case the transaction involved should have been made as one transaction for one price.

H. Any member of the Authority who votes to unlawfully evade the provisions of this section and who knows that the transaction upon which he so votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote.

I. (Deleted by amendment)

J. Adjustments to the base amounts specified under subsections A, B, B.1 and G shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending September 30, 2012, and for each successive twelve-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and

the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest \$100 to determine the final adjusted base amounts for purposes of subsections A, B, B.1 and G.

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest \$100 to determine the new final adjusted base amounts for purposes of subsections A, B, B.1 and G.

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15, 2012, and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under subsections A, B and G and written or telephonic price quotations are required under subsection B.1, respectively, for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed three per centum.

(11 amended Oct. 24, 2012, P.L.1326, No.168)

Compiler's Note: See section 2 of Act 168 of 2012 in the appendix to this act for special provisions relating to applicability.

Compiler's Note: Section 2 of Act 87 of 2011, which amended section 11, provided that Act 87 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 2.

Section 12. Acquisition of Lands.

The authority shall have the power to acquire, by purchase or eminent domain proceedings, either the fee or such right, title, interest or easement in such lands as the Authority may deem necessary for the purpose mentioned in this act: Provided, however, 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 or any of them, nor any property of a public service company, property used for burial purposes, places of public worship, shall be taken under the right of eminent domain. The right of eminent domain shall be exercised by the Authority in the manner provided by law for the exercise of such right by municipalities

of the same class as the municipality by which such Authority was organized.

In the case of a joint Authority, right of eminent domain shall be exercised by the Authority in the same manner as is provided by law for the exercise of such right by municipalities of the same class as the municipality in which the right of eminent domain is to be exercised, except that where the right is to be exercised in a city located in a county and both are members of the Authority, the law established for the city shall govern.

Section 13. Use of Projects.

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

Section 14. Limitation of Powers.

The Commonwealth does hereby pledge to and agree with any person, firm or corporation, or Federal agency, subscribing to or acquiring the bonds to be issued by the Authority for the construction, extension, improvement or enlargement of any project 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 that any Federal agency shall construct or contribute any funds for the construction, extension, improvement or enlargement of any project or any portion thereof, the Commonwealth will not alter or limit the rights and powers of the Authority in any manner which would be inconsistent with the continued maintenance and operation of the project or the improvement thereof or which would be inconsistent with the due performance of any agreements between the Authority and any such Federal agency, and the Authority shall continue to have and may exercise all powers herein granted so long as the same shall be necessary or desirable for the carrying out of the purposes of this act and the purposes of the United States in the construction or improvement or enlargement of the project or such portion thereof.

Section 15. Termination of Authority.

When any Authority shall have finally paid and discharged all bonds which, together with the interest due thereon, shall have been secured by a pledge of any of the revenues or receipts of a project, it may (subject to any agreements concerning the operation or disposition of such project) convey such project to the county or city creating the Authority and terminate its existence. A certificate requesting the termination of the existence of the Authority shall be submitted to the county or city creating the Authority. If the certificate is approved by the county or city, then the certificate, endorsed with such approval, shall be filed with the Secretary of the Commonwealth, and thereupon the said secretary shall note the termination of existence on the record of incorporation and return the certificate with his approval shown thereon to the board. Thereupon, the property of said Authority shall pass to the county or city and the Authority shall cease to exist.

Section 16. Exemption from Taxation.

The effectuation of the authorized purpose of Authorities created under this act shall 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 such Authorities will be performing essential governmental functions in effectuating such purposes, such Authorities shall not be required to pay any taxes or assessments upon any property acquired or used or permitted to be used by them for such purposes, and the bonds issued by any 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.

Section 17. Conveyance and Lease by Authorities.

A. The project established under this act may be acquired by the incorporating county or city. The said county or city shall, by appropriate resolution or ordinance, signify its or their desire to do so, and thereupon the Authority shall convey, by appropriate instrument, said project to the county or city, upon the assumption by the county or city of all obligations incurred by the Authority with respect to the project.

B. The project established under this act may be leased by the Authority to the incorporating county or city and the said county or city is hereby empowered to enter into a lease for such purpose.

Section 18. Constitutional Construction.

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 19. The provisions of this act shall become effective immediately upon its final enactment.

APPENDIX

Supplementary Provisions of Amendatory Statutes

2012, OCTOBER 24, P.L.1326, NO.168

Section 2. Notwithstanding the provisions of section 2 of the act of November 3, 2011 (P.L.353, No.87), entitled "An act amending the act of July 29, 1953 (P.L.1034, No.270), entitled, as amended, 'An act creating as bodies corporate and politic "Public Auditorium Authorities" in counties of the second class and in cities of the second class and in cities of the second class A and counties in which a city of the second class A is located, singly or jointly; prescribing the rights, powers and duties of such Authorities; authorizing such Authorities to acquire, construct, improve, maintain and operate public auditoriums; to borrow money and issue bonds therefor; providing for the payment of such bonds and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; empowering such Authorities to enter into contracts, leases and licenses with and to accept grants from private sources, the Federal Government, State, political subdivisions of the State or any agency thereof; authorizing the making of said grants from bond funds or current revenues;

authorizing Authorities to collect rentals, admissions, license fees for the use of the project; exempting the property and securities of such Public Auditorium Authorities from taxation, ' increasing the dollar amount of supplies and materials which may be purchased without advertising," the base amount of \$18,500 or \$10,000 as specified in section 11A, B, B.1 and G of the act shall apply to contracts and purchases advertised on or after the effective date of this section.

Compiler's Note: Act 158 amended section 11 of Act 168.