

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 10** Session of
2011

INTRODUCED BY TURZAI, MUSTIO, BEAR, BENNINGHOFF, BOYD, CAUSER, CHRISTIANA, DENLINGER, DUNBAR, ELLIS, EVANKOVICH, EVERETT, FLECK, GABLER, GEIST, GILLEN, GILLESPIE, GRELL, GROVE, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, KNOWLES, KRIEGER, MAJOR, METCALFE, METZGAR, MILLER, MOUL, MURT, PERRY, PYLE, RAPP, REESE, REICHLEY, ROAE, SACCONI, SCAVELLO, SCHRODER, SONNEY, STEVENSON, SWANGER AND VULAKOVICH, APRIL 26, 2011

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, IN SENATE, AS AMENDED, SEPTEMBER 27, 2011

AN ACT

1 Amending the act of April 6, 1956 (1955 P.L.1414, No.465),
2 entitled, as amended, "An act to promote the welfare of the
3 people of this Commonwealth; creating Port Authorities to
4 function in counties of the second class as bodies corporate
5 and politic, with power to plan, acquire, construct, maintain
6 and operate facilities and projects for the improvement and
7 development of the port district and to borrow money and
8 issue bonds therefor; providing for the payment of such bonds
9 and prescribing the rights of the holders thereof; conferring
10 the right of eminent domain on the authorities; authorizing
11 the authorities to enter into contracts with and to accept
12 grants from the Federal government or any agency thereof; and
13 conferring exclusive jurisdiction on certain courts over
14 rates and services; and authorizing the authorities to
15 collect tolls, fares, fees, rentals and charges for the use
16 of facilities; defining the authorities' powers and duties,
17 and defining the port districts; granting Port Authorities
18 the exclusive right to engage in the business of owning,
19 operating, and maintaining a transportation system for the
20 transportation of persons in counties of the second class,
21 providing, when necessary, for extension of transportation
22 systems into adjoining counties and outside of said counties
23 as provided in the act; limiting the jurisdiction of the
24 Public Utility Commission over Port Authorities; authorizing
25 municipalities to make loans and grants and to transfer
26 existing facilities; authorizing Port Authorities to enter
27 into contracts with and to accept grants from State and local

1 governments or agencies thereof; exempting the property and
2 facilities of such Port Authorities from taxation and
3 limiting the time to commence civil action against said
4 Authorities," further providing for title, for legislative
5 findings, for definitions, for port authorities, for board,
6 for eminent domain, for conveyance and for integrated
7 operation; providing for exclusive jurisdiction and for
8 report; and making editorial changes.

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

11 Section 1. The title of the act of April 6, 1956 (1955
12 P.L.1414, No.465), known as the Second Class County Port
13 Authority Act, amended October 7, 1959 (P.L.1266, No.429), is
14 amended to read:

15 AN ACT

16 To promote the welfare of the people of this Commonwealth;
17 creating Port Authorities to function in counties of the
18 second class as bodies corporate and politic, with power to
19 plan, acquire, construct, maintain and operate facilities and
20 projects for the improvement and development of the port
21 district and to borrow money and issue bonds therefor;
22 providing for the payment of such bonds and prescribing the
23 rights of the holders thereof; conferring the right of
24 eminent domain on the authorities; authorizing the
25 authorities to enter into contracts with and to accept grants
26 from the Federal government or any agency thereof; and
27 conferring exclusive jurisdiction on certain courts over
28 rates and services; and authorizing the authorities to
29 collect tolls, fares, fees, rentals and charges for the use
30 of facilities; defining the authorities' powers and duties,
31 and defining the port districts; granting Port Authorities
32 the [exclusive] right to engage in the business of owning,
33 operating, and maintaining a transportation system for the
34 transportation of persons in counties of the second class,

1 providing, when necessary, for extension of transportation
2 systems into adjoining counties and outside of said counties
3 as provided in the act; limiting the jurisdiction of the
4 Public Utility Commission over Port Authorities; authorizing
5 municipalities to make loans and grants and to transfer
6 existing facilities; authorizing Port Authorities to enter
7 into contracts with and to accept grants from State and local
8 governments or agencies thereof; exempting the property and
9 facilities of such Port Authorities from taxation and
10 limiting the time to commence civil action against said
11 Authorities.

12 Section 2. Section 1 of the act, amended October 7, 1959
13 (P.L.1266, No.429) and December 30, 1970 (P.L.953, No.300), is
14 amended to read:

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

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

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

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

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

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

4 (6) That in counties of the second class there has been and
5 is an ever increasing growth in the industrial, commercial and
6 residential areas, requiring adequate and modern transportation
7 facilities [for the mass transportation of passengers].

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

12 (8) That the well-being and economic health of the counties
13 of the second class require [an integrated system of mass
14 passenger transportation] a modern transportation system.

15 (9) That it is desirable that [the] a public transportation
16 system be [combined, improved, extended and supplemented]
17 established by the creation of [authorities] an authority as
18 herein provided.

19 (10) That [the establishment of a port authority will
20 promote the public safety, convenience and welfare] it is
21 desirable that a port authority be established by the creation
22 of an authority as provided in this act.

23 (11) That it is intended that the authority created under
24 this act cooperate, where mutually beneficial, with [and/or
25 acquire existing transportation facilities] common carriers,
26 that private enterprise and government may mutually provide
27 adequate port facilities and transportation services for the
28 convenience of the public.

29 (12) That it is intended that [the authorities] an authority
30 created hereunder will cooperate with all municipalities and

1 other public bodies in which [they operate] it operates so that
2 the [mass passenger] public transportation system may best serve
3 the interests of the residents thereof.

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

13 Section 3. Section 2 of the act, amended October 7, 1959
14 (P.L.1266, No.429), September 16, 1961 (P.L.1361, No.605) and
15 December 30, 1970 (P.L.953, No.300), is amended to read:

16 Section 2. As used in this act:

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

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

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

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

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

29 (6) The term "construction" shall mean and include
30 acquisition and construction, and the term "to construct" shall

1 mean and include to acquire and to construct all in such manner
2 as may be deemed desirable.

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

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

12 (9) The term "improvement" shall mean and include extension,
13 enlargement and improvement, and the term "to improve" shall
14 mean and include to extend, to enlarge and to improve all in
15 such manner as shall be deemed desirable.

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

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

24 (12) The term "port facility" shall include all real and
25 personal property used in the operation of a port terminal,
26 including, but without being limited to, wharves, piers, slips,
27 ferries, docks, drydocks, ship repair yards, bulkheads, dock
28 walls, basins, carfloats, float-bridges, dredging equipment,
29 radio receiving and sending stations, grain or other storage
30 elevators, warehouses, cold storage, tracks, yards, sheds,

1 switches, connections, overhead appliances, bunker coal, oil and
2 fresh water stations, railroads, motor trucks, floating
3 elevators, [airports,] barges, scows or harbor craft of any ←
4 kind, markets and every kind of terminal storage or supply
5 depot, now in use or hereafter designed for use, to facilitate
6 transportation and for the handling, storage, loading or
7 unloading of freight at terminals, and equipment, materials and
8 supplies therefor.

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

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

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

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

4 (17) The term "service area" shall mean the entire county
5 incorporating the authority and those portions of adjacent
6 counties necessary to permit the authority (i) to acquire
7 [existing] a transportation [systems, eighty per centum of whose
8 revenue vehicle miles for the preceding calendar year are
9 operated within the incorporating county] system, at a price and
10 in a manner deemed reasonable by an authority; (ii) to acquire
11 by purchase only and not by exercise of the right of eminent
12 domain other existing transportation systems or parts thereof
13 which, in the authority's sole discretion, are required for the
14 establishment of [an integrated] a system; (iii) to establish
15 transit service between points in the county incorporating the
16 authority and points in the adjacent counties where no such
17 service is at the time being rendered and which service the
18 authority, in its sole discretion, has determined to be
19 required: Provided, however, That no such service shall be
20 established without the consent of the affected adjacent county
21 nor without participation of such county in the payment of the
22 cost of establishing and maintaining such service; and (iv) to
23 establish rapid transit facilities over jointly used or
24 exclusive fixed rights of way.

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

27 Section 4. Section 3 of the act, amended October 7, 1959
28 (P.L.1266, No.429), December 30, 1970 (P.L.953, No.300) and July
29 9, 1992 (P.L.700, No.104) and repealed in part June 3, 1971
30 (P.L.118, No.6), is amended to read:

1 Section 3. (a) There [are hereby created bodies] is created
2 in each county of the second class a single body corporate and
3 politic [in counties of the second class], to be known as Port
4 Authority of (insert name of county), which shall [constitute
5 public bodies corporate and politic; exercising] exercise the
6 public powers of the Commonwealth as an agency thereof. [Each
7 authority] An authority created under this section shall be for
8 the purpose of planning, acquiring, holding, constructing,
9 improving, maintaining and operating, owning, leasing, either as
10 lessor or lessee, port facilities within the port district of
11 the county by which it is incorporated, and a transportation
12 system in the county by which it is incorporated and outside of
13 the county to the extent necessary for (i) the establishment of
14 [an integrated] a transportation system; (ii) the establishment
15 of additional transit service where none at the time is being
16 otherwise rendered; (iii) the establishment of rapid transit
17 facilities over jointly used or exclusive fixed rights of way
18 and (iv) the rendering of [all] group and party services [which
19 can be provided by transportation systems subject to acquisition
20 under this act pursuant to certificates of public convenience
21 issued them by the Pennsylvania Public Utility Commission].

22 (b) [Each authority is hereby granted and] An authority
23 shall have and may exercise all powers necessary or convenient
24 for the carrying out of the aforesaid purposes, including but
25 without limiting the generality of the foregoing, the following
26 rights or powers:

27 (1) To have perpetual existence.

28 (2) To sue and be sued, implead and be impleaded, complain
29 and defend in all courts, to petition the Interstate Commerce
30 Commission (or like body) or join in any proceeding before any

1 such bodies or courts in any matter affecting the operation of
2 any project of the authority.

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

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

6 (5) To acquire, purchase, hold, lease as lessee and use any
7 franchise, property, real, personal or mixed, tangible or
8 intangible, or any interest therein, necessary or desirable for
9 carrying out the purposes of the authority, and to sell, lease
10 as lessor, transfer and dispose of any property, or interest
11 therein, at any time, required by it. In exercising the power
12 granted by this subsection, the authority shall consider the
13 same value factors as provided in section 7 of this act in
14 determining compensation under the exercise of eminent domain.

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

17 (6.1) To construct, improve, maintain, repair and operate
18 high-occupancy vehicle lanes that are incorporated into and are
19 made part of an authority facility.

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

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

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

22 (10) To borrow money, make and issue negotiable notes,
23 bonds, refunding bonds and other evidences of indebtedness or
24 obligations of the authority, and to secure the payment of such
25 bonds, or any part thereof, by pledge or deed of trust of all or
26 any of its revenues, rentals and receipts, and to make such
27 agreements with the purchasers or holders of such bonds or with
28 others in connection with any such bonds, whether issued or to
29 be issued as the authority shall deem advisable and in general,
30 to provide for the security for said bonds and the rights of the

1 holders thereof.

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

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

13 (13) To have the power of eminent domain.

14 (14) To pledge, hypothecate, or otherwise encumber, all or
15 any of the revenues or receipts of the authority as security for
16 all or any of the obligations of the authority.

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

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

25 (17) To enter into contracts of group insurance for the
26 benefit of its employes, or to continue in existence any
27 existing insurance and/or pension or retirement system and/or
28 any other employe benefit arrangement covering employes of an
29 acquired [existing] transportation system, and/or to set up a
30 retirement or pension fund or any other employe benefit

1 arrangement for such employes.

2 (18) An authority shall have no power, at any time or in any
3 manner, to pledge the credit or taxing power of the Commonwealth
4 of Pennsylvania or any political subdivision, nor shall any of
5 its obligations be deemed to be obligations of the Commonwealth
6 of Pennsylvania or of any of its political subdivisions, nor
7 shall the Commonwealth of Pennsylvania or any political
8 subdivision thereof be liable for the payment of principal or
9 interest on such obligations.

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

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

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

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

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

14 (24) To form plans for the improvement of public mass
15 transportation in order to promote the economic development of
16 the service area in which the authority operates; [to make
17 recommendations concerning mass transportation facilities which
18 the authority does not own or operate;] to make recommendations
19 concerning throughways and arterial highway connections to the
20 [Department of Highways] department and to other appropriate
21 governmental bodies; and otherwise to cooperate with all such
22 governmental bodies.

23 (25) To enter into agreements with any public utility
24 operating a railroad or any other public or private
25 transportation facility or common carrier wholly or partially
26 located or providing transportation services within the service
27 area for the joint or exclusive use of any property of the
28 entity, the authority or the public utility or the establishment
29 of through routes over the rights of way of the entity, the
30 public utility or the authority or the establishment of joint

1 fares and transfer of passengers.

2 (26) To develop programs designed solely to advertise,
3 promote and stimulate the development and use of its port
4 facility and transportation system and to join and to authorize
5 its agents, employes and servants to join national and local
6 trade and professional organizations organized for the purpose
7 of promoting the betterment of port facilities and
8 transportation systems and the improvement of the efficiency of
9 persons connected with or employed by port facilities and
10 transportation systems.

11 (27) Notwithstanding any other provision of law, to contract
12 with any third party for the allocation of liability for any and
13 all claims, actions, suits or damages, whether for compensatory
14 or punitive damages, arising against a third party or the
15 authority in connection with any accident or incident related to
16 the operations conducted by or on behalf of or authorized by the
17 authority or a third party, on property owned by the authority
18 or on property owned by a third party and adjacent to the
19 authority's property. If a third party asserts against the
20 authority any claim relating to liability that the authority,
21 pursuant to contract, has assumed, such claim may, to the extent
22 provided in this clause, result in the imposition of liability
23 on the authority, and the defense of sovereign immunity as
24 provided in 42 Pa.C.S. Ch. 85 Subch. B (relating to actions
25 against Commonwealth parties) shall not be raised by the
26 authority in connection therewith. The aggregate of liability
27 for all claims, actions, suits or damages, whether for
28 compensatory or punitive damages, that may be asserted against
29 and imposed upon such third party and which the authority,
30 pursuant to such contract, has assumed shall not exceed the

1 limits of the liability insurance coverage maintained by the
2 authority in connection with such assumed obligations, which
3 insurance coverage shall not be less than ten million dollars.
4 The authority shall be entitled to obtain and maintain insurance
5 coverage in amounts deemed by the authority to be necessary or
6 desirable and to name such third party as an additional named
7 insured on any insurance policies relating thereto.

8 Section 5. Section 6 of the act, amended June 18, 1999
9 (P.L.72, No.11), is amended to read:

10 Section 6. Subject to the provisions of section 6.1, the
11 powers of [the] an authority shall be exercised by a board,
12 composed of the number of members, not more than nine, [one of
13 whom shall at all times be a member of the county council
14 appointed by the county executive,] as shall be fixed by the
15 county council of [each county of the second class. The county
16 executive of each county of the second class] the county where
17 the authority is located. The county executive of that county
18 shall appoint the members of the board, one of whom shall at all
19 times be a member of the county council, all of whom shall be
20 residents of such county and citizens of the United States,
21 whose terms of office shall commence on the date of appointment,
22 one member shall serve for one year, one for two years, one for
23 three years, and one for four years, and one for five years,
24 from the first day of January next succeeding the date of
25 approval of this act, and terms of other members shall be
26 staggered in a similar manner but in no instance shall exceed
27 five years. Thereafter, whenever a vacancy has occurred or is
28 about to occur by reason of the expiration of the term of any
29 member, the county executive shall appoint a member for a term
30 of five years to succeed the member whose term has expired or is

1 about to expire. Members shall hold office until their
2 successors have been appointed, and may succeed themselves. A
3 member shall receive such compensation for his services as the
4 county executive shall determine and shall be entitled to the
5 necessary expenses, including traveling expenses incurred in the
6 performance of his duties. Within ninety days after the creation
7 of the authority, the board shall meet and organize by electing
8 from their number a chairman, a vice chairman, and such other
9 officers as the board may determine. The board may employ a
10 secretary, an executive director, its own counsel and legal
11 staff and such technical experts and other agents and employes,
12 permanent or temporary, as it may require, and may determine the
13 qualifications and fix the compensation of such persons. Six
14 members of the board shall constitute a quorum for its meetings.
15 Members of the board shall not be liable personally on the bonds
16 or other obligations of the authority, and the rights of
17 creditors shall be solely against [such] the authority. The
18 board may delegate to one or more of its agents or employes such
19 of its powers as it shall deem necessary to carry out the
20 purposes of this act, subject always to the supervision and
21 control of the board. The board shall have full authority to
22 manage and operate the business of the authority and to
23 prescribe, amend and repeal by-laws, rules and regulations
24 governing the manner in which the business of the authority may
25 be conducted and the powers granted to it may be exercised and
26 embodied. Copies of such by-laws, rules and regulations shall be
27 filed with the county council of the county [incorporating the
28 authority]. A member may be removed for cause by the court of
29 common pleas of the county in which the authority is located
30 after having been provided with a copy of the charges against

1 the member for at least ten days and a full hearing by the
2 court.

3 If a vacancy occurs by reason of the death, resignation or
4 removal of a member, the county executive shall appoint a
5 successor to fill the unexpired term.

6 Section 6. Section 7.1 of the act, added October 7, 1959
7 (P.L.1266, No.429), is amended to read:

8 Section 7.1. [The] An authority shall exercise its power of
9 eminent domain in the manner prescribed by the provisions of
10 Article XXVI. of the act of July 28, 1953 (P.L.723), known as
11 the "Second Class County Code," except as such provisions are in
12 conflict with the provisions of this section: Provided, That no
13 property owned or used by the United States, the Commonwealth of
14 Pennsylvania, any political subdivision thereof, or any body
15 politic and corporate organized as an "authority" under any law
16 of the Commonwealth or by any agency of any of them, nor any
17 property used by a public utility other than a transportation
18 system, nor any common carrier subject to the jurisdiction of
19 the Interstate Commerce Commission or the Public Utility
20 Commission UNLESS THE CARRIER IS IN A BANKRUPTCY PROCEEDING OR ←
21 OTHERWISE NOT OPERATIONAL, nor any property used for burial
22 purposes or places of public worship, shall be taken under the
23 right of eminent domain.

24 In case the authority shall repeal any resolution passed or
25 discontinue any proceeding taken with respect to the exercise of
26 its right of eminent domain prior to the entry upon, taking,
27 appropriation or injury to any property, the authority shall not
28 thereafter be liable to pay any damages which have been or might
29 have been assessed, but all costs and expenses upon any
30 proceeding had thereon shall be paid by the authority together

1 with any actual damage, loss or injury sustained by reason of
2 such proceeding.

3 In ascertaining, assessing and determining the amount of
4 compensation or damages to be paid by the authority, the board
5 of viewers may determine every fact, matter or thing, which in
6 its judgment does or may have any bearing on the fair amount of
7 the compensation. The factors thus to be taken into account
8 shall include, among other things, the gross annual revenue, the
9 original cost of construction, with particular reference to the
10 amount expended in existing and useful permanent improvements,
11 with such consideration for the amount in market value of the
12 owner's bonds and stocks, if the owner be a corporation, as to
13 the board of viewers may seem just and fair; the probable
14 earning capacity of the property under particular rates
15 prescribed by statute or ordinance or other municipal contract
16 or fixed by any regulatory body; and for the items of
17 expenditures for obsolete equipment and construction as the
18 circumstances and historical development of the properties may
19 warrant. The reproduction cost of the property based upon the
20 fair average price of materials, property and labor, and the
21 development and going-concern value of such properties,
22 facilities, and franchises, any element of delay under these
23 proceedings, and other elements of value, shall be given such
24 weight by the board of viewers as may, in its judgment, be just
25 and right in each case, as in other matters involving the
26 valuation of properties and facilities devoted to the public
27 service and coming before the said board of viewers for
28 determination. The determination of the board of viewers shall
29 award compensation or damages to each owner separately, and, in
30 case any owner is also the lessee of the properties, facilities

1 and franchises of any other company whose properties, facilities
2 or franchises are acquired or to be acquired hereunder, the
3 total amount awarded with respect thereto shall be apportioned
4 between the owner or owners of such properties, facilities and
5 franchises and any person or persons, company or companies,
6 having an interest therein by virtue of any such lease or series
7 of leases, the purpose of this provision being that the gross
8 amount of damages or compensations, ascertained and determined
9 as hereinabove provided, shall be distributed among those
10 rightfully entitled thereto in such manner as may be just and
11 equitable, having in view their respective interests therein.

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

27 Any payments made pursuant to this act shall be credited upon
28 the award or verdict and final judgment, provided such award and
29 judgment is in a greater amount. Any payment made in excess of
30 the award and verdict and final judgment shall be refunded to

1 the authority. Detention damages and interest on the award of
2 damages shall be limited to the amount, if any, by which the
3 amount of money paid into court, as hereinabove required, is
4 less than the award or verdict and final judgment.

5 Section 7. Section 13 of the act, amended March 20, 1963
6 (P.L.5, No.3) and December 30, 1970 (P.L.953, No.300), is
7 amended to read:

8 Section 13. Any municipality or owner is hereby authorized
9 to sell, lease, lend, grant, transfer or convey to [the] an
10 authority, with or without consideration, any facility or any
11 part or parts thereof, or any interest in real or personal
12 property which may be used by the authority in the construction,
13 improvement, maintenance or operation of any facility. Any
14 municipality is also authorized to transfer, sell, assign and
15 set over to the authority any contracts which may have been
16 awarded by such municipality for the construction of facilities
17 not begun, or if begun, not completed. Any county of the second
18 class is hereby empowered to issue general obligation or non-
19 debt revenue bonds for the purpose of providing funds for the
20 acquisition, construction or improvement of any facility. Any
21 county of the second class may and it is hereby authorized to
22 make grants or loans from current revenues or the proceeds of
23 general obligation bonds to the authority to assist in defraying
24 the costs of any demonstration, test or experimental projects,
25 and the costs of studies in preparation of a plan of integrated
26 operation and for the operation, maintenance and debt service of
27 any facility and to enter into long term agreements providing
28 for the payment of such grants.

29 Any county wherein any part of a transportation system [as]
30 established by an authority created under this act is operating

1 or is proposed to operate is hereby empowered (i) to issue
2 general obligation bonds for the purpose of providing funds for
3 the acquisition, construction or improvement of the
4 transportation system; (ii) to make grants or loans from current
5 revenues or the proceeds of general obligation bonds to the
6 authority to assist in defraying the cost of any demonstration
7 test or experimental projects and the cost of studies in
8 preparation of a plan of [integrated] operation and the
9 improvement of the transportation system and for the operation,
10 maintenance and debt service of the transportation system and to
11 enter into long term agreements with the authority and with one
12 or more other counties served by the transportation system
13 providing for the payment of such grants.

14 Section 8. Section 13.1 of the act, amended or added October
15 7, 1959 (P.L.1266, No.429), March 20, 1963 (P.L.5, No.3) and
16 December 30, 1970 (P.L.953, No.300), is amended to read:

17 Section 13.1. [The] An authority, immediately upon its
18 organization, shall commence its study of [an integrated] a
19 system of [mass] transportation within the service area. Such
20 study shall include, but not be limited to the estimated cost of
21 acquisition of existing transportation systems, the development
22 of facilities, the estimates of revenues and the financial
23 feasibility of [an integrated] a system of [mass]
24 transportation. Thereafter, the authority shall prepare a plan
25 of [integrated] operation showing the service area and the
26 pattern of its [integrated] system. The plan of [integrated]
27 operation shall be submitted for approval to the [board of
28 county commissioners of the county incorporating the authority]
29 county council of the county where the authority is located, and
30 simultaneously, the authority shall submit to the [board of

1 county commissioners] county council the recommendation of the
2 authority on the plan of [integrated] operation, and a schedule
3 disclosing estimated cost of acquisition of existing
4 transportation systems, estimates of revenue and expenditures
5 for the proposed plan of [integrated] operation, and the
6 proposed method of financing the acquisition and the plan of
7 [integrated] operation. The [board of county commissioners]
8 county council shall advertise the fact that the plan of
9 [integrated] operation has been submitted and is available for
10 public inspection at least once each week for two consecutive
11 weeks in a newspaper of general circulation in the county where
12 the authority is located: Provided, That no action may be taken
13 by the [board of county commissioners] county council until the
14 plan of [integrated] operation has been on file in the office of
15 the county [commissioners] council and available for public
16 inspection for a period of at least thirty days following the
17 date of publication of the second notice. The [board of county
18 commissioners] county council may approve or reject the plan of
19 [integrated] operation as submitted or, at any time thereafter,
20 direct the authority to revise the original plan of [integrated]
21 operation. In the event of a revision of the original plan of
22 [integrated] operation, such revised plan of [integrated]
23 operation shall be resubmitted to the [board of county
24 commissioners] county council and shall be acted upon in the
25 same manner as herein provided in the case of the submission by
26 the authority of the original plan of [integrated] operation.
27 Prior to approving or rejecting the plan of [integrated]
28 operation or revised plan of [integrated] operation, the [board
29 of county commissioners] county council may submit the question
30 of approval of such plan or revised plan of [integrated]

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

6 Shall the [board of county commissioners]
7 county council of County approve Yes.....
8 the [integrated] plan of operation of a
9 [mass] transportation system submitted No.....
10 under the provisions of the Second Class
11 County Port Authority Act?

12 The referendum on this question shall be governed in all
13 respects by the election laws of the Commonwealth in so far as
14 they are applicable. Upon final approval by the [board of county
15 commissioners] county council, the original or revised plan of
16 [integrated] operation shall be recorded in the office of the
17 recorder of deeds of the county or counties affected thereby and
18 a copy of said plan of [integrated] operation shall also be
19 filed with the [Pennsylvania] Public Utility Commission. The
20 authority shall, thereafter, have the right to make such changes
21 in the pattern of its [integrated] transportation system and its
22 service area as it may deem proper, subject to appeal to the
23 court of common pleas in the same manner as provided for in
24 clause (9) of subsection (b) of section 3 of this act, by
25 adopting an amendment to the plan of [integrated] operation or
26 service area and filing and recording the same in the office of
27 the recorder of deeds and with the [Pennsylvania] Public Utility
28 Commission as above provided. The authority shall not have power
29 to acquire by purchase, condemnation or otherwise, any existing
30 transportation systems, or engage in the operation of a

1 transportation system as provided under this act, until it has
2 met the requirements for recording and filing of the plan of
3 integrated operation as provided herein: Provided, however, That
4 the authority may enter into option agreements with any existing
5 transportation systems for the purchase, lease or operation
6 thereof, subject to the final approval of the plan of
7 [integrated] operation by the [board of county commissioners]
8 county council: Provided further, That nothing in this section,
9 including the foregoing proviso clause, shall prevent, limit,
10 restrict or interfere with in any way an undertaking or joining
11 by the authority of any demonstration, test or experimental
12 project relevant to, and necessary for, the establishment of an
13 integrated transportation system or of any demonstration, test
14 or experimental project that may be required, or advisable, to
15 establish the feasibility of [an integrated] a transportation
16 system.

17 Upon the recording of the plan of [integrated] operation, any
18 law to the contrary notwithstanding, the authority shall have
19 exclusive jurisdiction with respect to all matters regarding its
20 transportation system within the service area as set forth in
21 the plan of operation or as from time to time changed as in this
22 section provided[. The Public Utility Commission shall have no
23 authority to grant certificates of public convenience for a
24 transportation system within the service area of the authority
25 or for the establishment of group and party rights to operate
26 wholly within such service area. The Public Utility Commission
27 shall continue to have jurisdiction, except as otherwise
28 provided in this section, with respect to all matters regarding
29 those transportation systems and group and party rights to
30 operate into or out of said service area.

1 The authority shall have the exclusive right to operate a
2 transportation system within the service area as set forth in
3 the plan of integrated operation, except for those
4 transportation systems operating into the said service area from
5 points outside of said area, which companies shall have the
6 right to pick up and discharge passengers destined to and from
7 the territory outside of said area but not the right to pick up
8 and discharge passengers entirely within the service area. Said
9 excepted transportation systems by agreement with the authority
10 may arrange for the pick up and discharge of passengers within
11 the said service area when, in the opinion of the authority,
12 such privilege will serve the purpose for which the authority
13 was created. The authority may, also by agreement with an
14 existing transportation system now servicing the said service
15 area, permit a continuation of such services where, in the
16 opinion of the authority, such privilege will serve the purpose
17 for which the authority was created. In the event no such
18 agreement is entered into between the excepted transportation
19 systems and the authority prior to the authority commencing to
20 operate a mass transportation system in the service area, the
21 authority shall be liable for all direct and consequential
22 damages for any loss in value of the remaining portions of the
23 system arising from the loss of the right to pick up and
24 discharge passengers entirely within the service area.

25 The authority shall, within two years after approval by the
26 board of county commissioners and the recording and filing of
27 the plan of integrated operation in the office of the recorder
28 of deeds and with the Pennsylvania Public Utility Commission as
29 hereinabove provided, acquire by purchase, lease or eminent
30 domain, or shall enter into an operation contract with all

1 transportation systems operating entirely within the county in
2 which the authority is created or eighty per centum of whose
3 revenue vehicle miles for the preceding calendar year are
4 operated within said county, except those transportation systems
5 subject to the jurisdiction of the Interstate Commerce
6 Commission: Provided, That the court of common pleas of the
7 county in which such authority is created may, upon cause shown,
8 extend the two-year period hereinbefore mentioned: And
9 provided,]: Provided, That if the authority shall at any time
10 desire to abandon or change any portion of a transportation
11 system outside the territorial limits of the county
12 incorporating the authority, the approval for such abandonment
13 or change must be secured by the authority from the
14 [Pennsylvania] Public Utility Commission[: And provided further,
15 That all].

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

20 Section 9. The act is amended by adding sections to read:

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

24 (1) an authority created under this act; or

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

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

30 (b) Except as otherwise provided in this act, the Public



1 Utility Commission shall have no jurisdiction over an authority
2 created under this act, and may not grant a certificate of
3 public convenience for a transportation system operated by or
4 for, or for services provided by or for, such an authority.

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

13 (1) The budget of the authority.

14 (2) The annual aggregate revenues of the authority.

15 (3) The number of employes of the authority.

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

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

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

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

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

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

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

1 Section 10. This act shall take effect in 90 days.