

## No. 1980-41

## AN ACT

## SB 188

Amending the act of May 2, 1945 (P.L.382, No.164), entitled "An act providing for the incorporation as bodies corporate and politic of 'Authorities' for municipalities, counties and townships; prescribing the rights, powers and duties of such Authorities heretofore or hereafter incorporated; authorizing such Authorities to acquire, construct, improve, maintain and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates," authorizing Authorities to provide business improvements and business administrative services.

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

Section 1. Section 2, act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945," is amended by adding definitions to read:

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:

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*(k) The term "administrative service" in the case of Authorities created for the purpose of making business improvements or providing administrative services shall mean those services which improve the ability of the commercial establishments of the district to serve the consumer such as free or reduced fee parking for customers, transportation repayments, public relations programs, group advertising, and district maintenance and security services.*

*(l) The term "business improvement" in the case of Authorities created for the purpose of making business improvements or providing administrative services shall mean those improvements needed in the district designated by an Authority to the district in general or to specific areas or individual properties including but not limited to sidewalks, retaining walls, street paving, street lighting, parking lots, parking garages, trees and shrubbery, pedestrian walks, sewers, water lines, rest areas and acquisition and remodeling or demolition of blighted buildings or structures. Improvements shall not be made to property not acquired by purchase or lease, other than those improvements made within a right-of-way.*

Section 2. Subsection A of section 3 of the act, amended January 21, 1952 (1951 P.L.2188, No.626), is amended and a clause is added to subsection B to read:

Section 3. Method of Incorporation.—A. Whenever the municipal authorities of any municipality singly or of two or more municipalities jointly 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 municipality or municipalities 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 such articles making reference to this act, *and shall specifically provide that the municipality or municipalities have retained the right which exists under this act to approve any plan of the Authority, in the case of Authorities created for the purpose of making business improvements or providing administrative services if appropriate*, 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 such municipality shall be required (any law to the contrary notwithstanding) to make any other publication of such resolution or ordinances under the provisions 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:

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*(f) A statement that the municipality or municipalities have retained the right which exists under this act to approve any plan of the Authority, in the case of Authorities created for the purpose of making business improvements or providing administrative services, if appropriate.*

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 municipality by its proper officers and under its municipal seal.

Section 3. Subsections A and clause (h) of B of section 4 of the act, subsection A amended August 1, 1975 (P.L.164, No.85), clause (h) of subsection B amended December 16, 1975 (P.L.489, No.146), are amended and subsection B and the section are amended by adding a clause and a subsection to read:

Section 4. Purposes and Powers; General.—A. Every Authority incorporated under this act shall be a body corporate and politic, and shall be for the purpose of acquiring, holding, constructing,

improving, maintaining and operating, owning, leasing, either in the capacity of lessor or lessee, projects of the following kind and character, equipment to be leased by an Authority to the municipality or municipalities that organized it, buildings to be devoted wholly or partially for public uses, including public school buildings, and facilities for the conduct of judicial proceedings, and for revenue-producing purposes; transportation, marketing, shopping, terminals, bridges, tunnels, flood control projects, highways, parkways, traffic distribution centers, parking spaces, airports, and all facilities necessary or incident thereto, parks, recreation grounds and facilities, sewers, sewer systems or parts thereof, sewage treatment works, including works for treating and disposing of industrial waste, facilities and equipment for the collection, removal or disposal of ashes, garbage, rubbish and other refuse materials by incineration, land fill or other methods, steam heating plants and distribution systems, incinerator plants, waterworks, water supply works, water distribution systems, swimming pools, playgrounds, lakes, low head dams, hospitals, health centers, motor buses for public use, when such motor buses are to be used within any municipality, subways and industrial development projects, including but not limited to projects to retain or develop existing industries and the development of new industries, *the development and administration of business improvements and administrative services related thereto*: Provided, That an Authority created by a school district or school districts shall have the power only to acquire, hold, construct, improve, maintain, operate and lease public school buildings and other school projects acquired, constructed or improved for public school purposes. The purpose and intent of this act being to benefit the people of the Commonwealth by, among other things, increasing their commerce, health, safety and prosperity, and not to unnecessarily burden or interfere with existing business by the establishment of competitive enterprises, none of the powers granted by this act shall be exercised in the construction, improvement, maintenance, extension or operation of any project or projects which in whole or in part shall duplicate or compete with existing enterprises serving substantially the same purposes. This limitation shall not apply to the exercise of the powers granted hereunder for facilities and equipment for the collection, removal or disposal of ashes, garbage, rubbish and other refuse materials by incineration, land fill or other methods, if each municipality organizing or intending to use the facilities of an Authority having such powers shall declare by resolution or ordinance that it is desirable for the health and safety of the people of such municipality that it use the facilities of the Authority, and if any contract between such municipality and any other person, firm or corporation for the collection, removal or disposal of ashes, garbage, rubbish and other refuse material has by its terms expired or is terminable at the option of the municipality or will expire within six months from the date such ordinance becomes effective. This limita-

tion shall not apply to the exercise of the powers granted hereunder for industrial development projects if the Authority does not develop industrial projects which will compete with existing industries. *This limitation shall not apply to the exercise of the powers granted hereunder for Authorities created for the purpose of providing business improvements and administrative services if each municipality organizing an Authority for such a project shall declare by resolution or ordinance that it is desirable for the entire municipality to improve the business district.* This limitation shall also not apply to hospital projects to be leased to public hospitals or nonprofit hospital corporations serving the public if each municipality organizing an Authority for such a project shall declare by resolution or ordinance that it is desirable for the health and safety of the people in the area served by such hospital to have such facilities provided by an Authority. The municipality or municipalities organizing such an Authority may, in the resolution or ordinance signifying their intention so to do, or from time to time by subsequent resolution or ordinance, specify the project or projects to be undertaken by the said Authority, and no other projects shall be undertaken by the said Authority than those so specified. If the municipal authorities organizing an Authority fail to specify the project or projects to be undertaken, then the Authority shall be deemed to have all the powers granted by this act.

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

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(h) To fix, alter, charge and collect rates and other charges in the area served by its facilities at reasonable and uniform rates to be determined exclusively by it, 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, *and, in the case of an Authority created for the purpose of making business improvements or providing administrative services, a charge for such services which is to be based on actual benefits and which may be measured on among other things gross sales or gross or net profits,* 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 municipality incorporating or municipalities which are members of said Authority or with any municipality, served or to be served by said Authority, and to determine by itself exclusively the services and improvements required to provide adequate, safe and reasonable service, including extensions thereof, in the areas served: Provided, That if the service area includes more than one municipality, the revenues from any project shall not be expended directly or indirectly on any other project, unless such expenditures are made for the

benefit of the entire service area. Any person questioning the reasonableness or uniformity of any rate fixed by any Authority or the adequacy, safety and reasonableness of the Authority's services, including extensions thereof, may bring suit against the Authority in the court of common pleas of the county wherein the project is located, or if the project is located in more than one county then in the court of common pleas of the county wherein the principal office of the project is located. The court of common pleas shall have exclusive jurisdiction to determine all such questions involving rates or service. Except in municipal corporations having a population density of three hundred persons or more per square mile, all owners of real property in eighth class counties may decline, in writing, the services of a solid waste authority.

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*(w) An Authority, created to provide business improvements and administrative services, may impose an assessment on each benefited property within a business improvement district which shall be based upon the estimated cost of the improvements or services in such district stated in the planning or feasibility study.*

*Such individual assessments shall be determined by one of the following methods:*

*(1) By an assessment determined by multiplying the total improvement or service cost by the ratio of the assessed valuation of all benefited properties in the district.*

*(2) By an assessment upon the several properties in the district in proportion to benefits as ascertained by viewers appointed in accordance with municipal law.*

*No assessment or charge shall be made unless such Authority has submitted the plan for business improvements and administrative services together with estimated costs and the proposed method of assessments for business improvements and charges for administrative services to the municipality in which the project is to be undertaken and the municipality shall have approved the plan, the estimated costs and the proposed method of assessment and charges.*

*There shall not be assessed any charges against the improved properties an aggregate amount in excess of the estimated cost.*

*Such Authority may by resolution authorize the payment of the assessment or charge in equal annual, or more frequent installments over such time and bearing interest at such rate not in excess of six per centum as may be specified in the resolution. Where bonds shall have been issued and sold, or notes or guarantees given or issued, to provide for the cost of the improvements or services the assessment in equal installments for bond repayment shall not be payable beyond the term for which the bonds, notes or guarantees are payable.*

*Claims to secure the assessments shall be entered in the prothonotary's office of the county at the same time and in the form and shall be collected in the same manner as municipal claims are filed*

*and collected notwithstanding the provisions of this section as to installment payments.*

*In the case of default in the payment of any installment and interest for a period of sixty days after it becomes due, the entire assessment and accrued interest shall be due.*

*Any owner of property, against whom an assessment has been made, may pay the same in full, at any time, with accrued interest and costs thereon, and such payment shall discharge the lien of such assessment.*

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*E. An Authority may be established to make business improvements or provide administrative services in districts designed herein by the municipality or municipalities acting jointly and zoned commercial or used for general commercial purposes or in contiguous areas, provided the inclusion of a contiguous area is directly related to the improvements and services proposed by such Authority.*

*Such Authority shall make planning or feasibility studies to determine needed improvements or administrative services. Written notice of the proposed improvement or service, the estimated cost thereof and the proposed method of assessment and charges and project cost to individual property owners shall be given to each property owner and commercial lessees in benefited properties in the district at least thirty days prior to the public hearing.*

*Such Authority shall be required to hold a public hearing on the proposed improvement or service, the estimated costs thereof and the proposed method of assessment and charges. Notice of such hearing shall be advertised at least ten days prior thereto in a newspaper whose circulation is within the municipality where such Authority is established. At such public hearing any interested party may be heard.*

*Such Authority shall take no further action on any proposed improvement or service if objection is made in writing by persons representing the ownership of one-third, in numbers of the benefited properties in the district or by property owners of the proposed district whose property valuation as assessed for taxable purposes shall amount to more than one-third of the total property valuation of the district. Objection shall be made within forty-five days after the conclusion of the public hearing on the proposed improvement or service. Objections must be in writing, signed and filed in the office of the governing body of the municipality in which the district is located and in the registered office of such Authority.*

Section 4. It is hereby determined and declared as a matter of legislative finding—

(1) The General Assembly finds that the maintenance of the economy of municipalities is vital to the best interests of the Commonwealth, but that the growth of the economy of many municipalities has been restricted by annexation laws, local tax limits and the inability to tax certain property which is exempt.

(2) The General Assembly finds that these restrictions have denied municipalities a share of the economic growth and prosperity experienced in other communities.

(3) The General Assembly finds that these restrictions have encouraged the migration of business and people with the resultant erosion of the central business economy, housing stock and tax base of many municipalities and the production of unemployment.

(4) The General Assembly finds that the policy of the Commonwealth of Pennsylvania is to promote the health, safety, morals, right to gainful employment, business opportunities and general welfare of the inhabitants of municipalities and the public purpose of alleviating unemployment and underemployment in these areas.

(5) That in furtherance of such policy and the fulfillment of such public purpose, the Commonwealth of Pennsylvania should provide a means by which improvements can be made and services provided for business in these municipalities.

Section 5. This act shall take effect in 60 days.

APPROVED—The 10th day of April, A. D. 1980.

DICK THORNBURGH