

No. 1990-115

A SUPPLEMENT

HB 2350

To the act of June 12, 1931 (P.L.575, No.200), entitled, "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," authorizing certain projects of the Delaware River Port Authority pursuant to Article XII of the Compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority.

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

Section 1. Legislative findings.

The General Assembly finds and declares as follows:

(1) There is an urgent need for development of port facilities in the Commonwealth of Pennsylvania.

(2) There is an urgent need for development of port facilities in southern New Jersey.

(3) Such development can best be undertaken by the Delaware River Port Authority.

(4) It will be of mutual advantage to the State of New Jersey and the Commonwealth of Pennsylvania that the Delaware River Port Authority proceed with these projects for the improvement and development of the port district for port purposes.

(5) It would be advantageous to such port development for the Delaware River Port Authority to create, acquire, construct and operate an International Trade Center in Camden, New Jersey, a Regional Intermodal Transfer Facility in the southeastern portion of Philadelphia, Pennsylvania, and a Regional Port Enhancement and Development Project.

(6) Article XII of the Compact between the States creating the Delaware River Port Authority provides that it shall not be within the power of the Authority to undertake such projects unless and until the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey shall have authorized the commission to so proceed.

(7) The Delaware River Port Authority, pursuant to Article XII of the Compact between the States, has requested of the Legislatures the authority to proceed with the development of an International Trade Center in Camden, New Jersey, and requested authority to proceed with the development of a Regional Intermodal Transfer Facility in the southeastern portion of Philadelphia, Pennsylvania, and requested authority to under-

take a Regional Port Enhancement and Development Project for the Port District.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Authority.” The Delaware River Port Authority.

“Compact” or “DRPA Compact.” The Compact or agreement entered into by the Commonwealth of Pennsylvania and the State of New Jersey creating the Delaware River Port Authority.

“International Trade Center Project.” A project consisting of an office building, parking facilities, and other appurtenances, and located in the City of Camden, New Jersey, on the new Riverside Drive, between Mickle Boulevard and Federal Street.

“Regional Intermodal Transfer Facility.” A project consisting of a rail facility, moving stock, and other necessary appurtenances, located in the City of Philadelphia within an area below the western terminus of the Walt Whitman Bridge.

“Regional Port Enhancement and Development Projects.” The projects described as follows:

(1) The development of terminal facilities within the port district. Terminal facility is defined in Article XIII of the DRPA Compact to include wharves, piers, slips, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, float-bridges, dredging equipment, radio receiving and sending equipment, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil and fresh water stations, markets, and every kind of terminal, storage or supply facility now in use to facilitate passenger transportation and for the handling, storage, loading or unloading of freight at terminals, and equipment, materials and supplies.

(2) A dredging project consisting of a study of future dredging needs of the Delaware River in conjunction with the Army Corps of Engineers, and the Authority being designated as the regional local sponsor for all cost-sharing projects that may be approved by the Federal Government in the future.

Section 3. Authorization of projects.

After investigation and study, having concluded plans with estimates of costs and means of financing for new projects for the improvement of the Delaware River's port facilities, and having made to the Legislature of the Commonwealth of Pennsylvania and to the Legislature of the State of New Jersey a detailed report dealing only with these projects, and having requested of the Legislatures authority to proceed with the projects described in the report pursuant to Article XII of the Compact, the Authority is authorized to finance, construct or rent, acquire by purchase or condemnation, operate, maintain, lease, own and otherwise deal with an International Trade Center Project, a Regional Intermodal Transfer Facility, and Regional Port Enhancement and Development Projects, all as described in section 2.

Section 4. Acquisition of property.**(a) Condemnation.—**

(1) For the effectuation of any of its purposes authorized by this act, the Authority is hereby granted, in addition to and in support of any other powers heretofore or hereafter granted to it, power and authority to acquire in its name by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, any land and other property which it may determine is *reasonably necessary for the facilities referred to in this act or for the construction thereof* as the Authority shall deem necessary, and any and all rights, titles and interest in such land and other property, including public lands, parks, playgrounds, reservations, highways or parkways, owned by or in which any public body of the Commonwealth of Pennsylvania or the State of New Jersey has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon, or the benefit or restrictions upon, abutting property to preserve and protect such facilities, the approaches, rail and highway connections thereto.

(2) Upon the exercise of the power of eminent domain under this act, the compensation to be paid with regard to property located in the Commonwealth of Pennsylvania shall be ascertained and paid as provided by the act of June 22, 1964 (Sp. Sess., P.L.84, No.6), known as the Eminent Domain Code, insofar as the provisions thereof are applicable and not inconsistent with the provisions of the Compact and of this act.

(3) Upon the exercise of the power of eminent domain under this act, the compensation to be paid with regard to property located in the State of New Jersey shall be ascertained and paid in the manner provided in Chapter 1 of Title 20 of the Revised Statutes of New Jersey insofar as the provisions thereof are applicable and not inconsistent with the provisions of the Compact and of this act.

(4) The Authority may join, in separate subdivisions in one petition, declaration or complaint, the descriptions of any number of trade or parcels of land or property to be condemned and the names of any number of owners and other parties who may have an interest therein. All such land or property included in the petition, declaration or complaint may be condemned in a single proceeding; provided, however, that separate awards shall be made for each tract or parcel of land or property; and provided further, that each of said tracts or parcels of land or property lies wholly in or has a substantial part of its value lying wholly within the same county.

(b) New Jersey public utilities.—In addition to any other powers heretofore or hereafter granted to it, the Authority, in connection with construction or operation of the projects authorized by this act, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances (in this subsection called “works”) in section 48:2-13 of the Revised Statutes of New

Jersey in, on, along, over or under any such project. Whenever in connection with the construction or operation of such projects the Authority shall determine that it is necessary that any such works, which are now or hereafter may be located in, on, along, over or under such projects shall be relocated in such project, or should be removed therefrom, the public utility owning or operating such works shall relocate or remove the same in accordance with the order of the Authority, provided, however, that the cost and expenses of such relocations or removal, including the cost of installing such works in a new location or new locations, and the cost of any lands or any rights or interest in lands or any other rights acquired to accomplish such relocation or removal, less the cost of any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such works, shall be paid by the Authority and shall be included in the cost of such project. In case of any such relocation or removal of works as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such works, with the necessary appurtenances, in the new location or locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such works in their former location.

(c) Pennsylvania public utilities.—Whenever the Authority acquires under this section the whole or any part of the right-of-way of a public utility located in the Commonwealth of Pennsylvania, the Authority shall, at its own expense, provide a substitute right-of-way on another and favorable location. Such public utility shall thereupon provide for the transfer to, or reconstruction upon, in, under or above said substitute right-of-way of any structures and facilities of said public utility located upon, in, under or above said original right-of-way at the time the same is so acquired. The Authority is hereby authorized to enter into agreements with such public utility to contribute toward the expense of such transfer or reconstruction, and, in the event that they are unable to agree on the amount to be paid, *the matter shall be referred to the Pennsylvania Public Utility Commission* which shall, after hearing thereon, make a finding of the amount to be paid to such public utility by the Authority. In case of failure of such public utility, within a reasonable time after notice so to do, to remove its facilities to such substitute right-of-way, the Pennsylvania Public Utility Commission shall have jurisdiction, on petition of the Authority, to order such transfer or reconstruction. Any party to such proceedings shall have the right of appeal from the ruling of the Pennsylvania Public Utility Commission.

(d) Utility rights-of-way.—The Authority is hereby authorized to acquire, by purchase or by the exercise of the power of eminent domain, any necessary land or right-of-way for the relocation of any such public utility right-of-way and facilities. The substitute right-of-way thus acquired shall be equal in estate to the original right-of-way acquired from the public utility, and the Authority shall deliver to the public utility a deed, duly executed and acknowledged, conveying to it an estate in the substitute right-of-way at least equal to that owned by the public utility in the original right-of-way, or, if such right-of-way is to be acquired by purchase, the Authority shall procure

and deliver to the public utility a deed conveying such estate to it from the owner of the land on which such substitute right-of-way is located.

(e) Application of section.—This section shall have no application to the relocation of public utility facilities located in the beds of public streets, roads or highways.

Section 5. Entry upon lands.

The Authority and its duly authorized agents and employees may enter upon land in the Commonwealth of Pennsylvania and the State of New Jersey for the purpose of making such surveys, maps or other examinations thereof as it may deem necessary or convenient for the purposes of acquiring and constructing the facilities authorized by this act.

Section 6. Tax exemption.

In addition to all tax exemptions given by the Compact to the Authority, to its property and to the bonds or obligations issued by it, no property, real or personal nor its transfer or use shall be subject to any tax by the Commonwealth of Pennsylvania or State of New Jersey, or any political subdivision of either of them, imposed on the purchase, use, sale or transfer or on the privilege of transferring title to such property, or on the execution, delivery or recording of any written instrument in connection therewith, to or by the Authority, in carrying out the projects authorized by this act or in carrying out any other undertaking of the Authority.

Section 7. Collection of tolls, rents and other charges.

As provided in the Compact, and in any event, not in derogation of any powers granted therein or in any manner heretofore, the Authority is authorized to establish, levy, collect and combine tolls, rents, user fees, rates and other charges and revenues in accordance with the Compact and the Congressional consents thereto as it may deem convenient or necessary and for the use of the projects, and to use and pledge the same as provided in the Compact and the Congressional consents thereto. The projects may be constructed, in whole or in part, with funds raised by the Authority on bonds or other securities or obligations issued or incurred by it pursuant to the Compact.

Section 8. Credit not be pledged.

Notwithstanding any provision of this act, the Authority shall have no power to pledge the credit of the Commonwealth of Pennsylvania, or the credit of the State of New Jersey, or the credit of any county, city, borough, village, township or other municipality of said Commonwealth or of said State, or to create any debt of said Commonwealth of said State or of said municipality.

Section 9. Construction of act.

Any powers vested in the Authority by this act shall be in addition to and not in diminution of the powers heretofore vested by law in the Authority.

Section 10. Effective date.

This act shall take effect upon the date of final enactment of legislation of the State of New Jersey having a substantially similar effect as this act, but, if the State of New Jersey has already enacted such legislation, this act shall take effect immediately.

APPROVED—The 11th day of July, A. D. 1990.

ROBERT P. CASEY