No. 2000-112

AN ACT

SB 712

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," further providing for the purposes and powers of an authority, for governing body residency requirements and for water and sewer service to tenants.

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

Section 1. Section 4A and B of the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, amended or added June 12, 1947 (P.L.571, No.249), January 21, 1952 (1951 P.L.2188, No.626), August 24, 1953 (P.L.1338, No.381), May 31, 1957 (P.L.211, No.105), December 28, 1972 (P.L.1654, No.351), January 2, 1973 (1972 P.L.1740, No.375), August 1, 1975 (P.L.164, No.85), April 10, 1980 (P.L.105, No.41), July 3, 1980 (P.L.360, No.91), December 19, 1980 (P.L.1290, No.230), February 18, 1982 (P.L.86, No.31), December 21, 1984 (P.L.1246, No.236), October 21, 1988 (P.L.1041, No.117), June 22, 1990 (P.L.236, No.54), November 21, 1990 (P.L.535, No.132), December 19, 1990 (P.L.1227, No.203) and December 19, 1990 (P.L.1396, No.217) and repealed in part November 26, 1978 (P.L.1399, No.330), are amended to read: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 and providing financing for insurance reserves.

(a) The Authority shall be for the purpose of financing working capital and of acquiring, holding, constructing, financing, improving, maintaining and operating, owning, leasing, either in the capacity of lessor or lessee, projects of the kind and character described in the following subclauses and for the purpose of providing financing for insurance reserves:

(1) equipment to be leased by an Authority to the municipality or municipalities that organized it, or to any municipality or school district located wholly or partially within the boundaries of the municipality or municipalities that organized it;

(2) 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;

(3) transportation, marketing, shopping, terminals, bridges, tunnels, flood control projects, highways, parkways, traffic distribution centers, parking spaces, airports, and all facilities necessary or incident thereto;

(4) parks, recreation grounds and facilities;

(5) sewers, sewer systems or parts thereof;

(6) sewage treatment works, including works for treating and disposing of industrial waste;

(7) facilities and equipment for the collection, removal or disposal of ashes, garbage, rubbish and other refuse materials by incineration, land fill or other methods;

(8) steam heating plants and distribution systems;

(9) incinerator plants;

(10) waterworks, water supply works, water distribution systems;

(11) facilities to produce steam which is used by the Authority or is sold on a contract basis for industrial or similar use or on a sale-for-resale basis to one or more entities authorized to sell steam to the public, provided that such facilities have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing such Authority and that the approval does not obligate the taxing power of the municipality in any way;

(12) facilities for generating surplus electric power which are related to incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants pursuant, where applicable, to section 3 of the Federal Power Act (16 U.S.C. § 796, relating to definitions) and section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. § 824a-3, relating to "Cogeneration and Small Power Production") or Title IV of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§ 2701 to 2708, relating to "Small Hydroelectric Power Projects"), provided that:

(i) electric power generated from the facilities shall be sold or distributed only on a sale-for-resale basis to one or more entities authorized to sell electric power to the public;

(ii) the facilities shall have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing such Authority and the approval does not obligate the taxing power of the municipality in any way; and

(iii) the incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants will be located within or contiguous with a county in which at least one of the municipalities organizing such Authority is located, except that this paragraph shall not apply to incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants located in any county which have been or will be constructed by or acquired by such Authority to perform functions, the

primary purposes of which are other than that of generation of electric power, for which such Authority has been organized;

(13) swimming pools, playgrounds, lakes, low head dams;

(14) hospitals, health centers;

(15) buildings and facilities for private, nonprofit, nonsectarian secondary schools, colleges and universities, State-related universities and community colleges, which are determined by the Authority to be eligible educational institutions provided that such buildings and facilities shall have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing the Authority and that the approval does not obligate the taxing power of the governing body in any way;

(16) motor buses for public use, when such motor buses are to be used within any municipality, subways; and

(17) 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.

(b) This section is subject to the following limitations:

(1) 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.

(2) 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, financing, improvement, maintenance, extension or operation of any project or projects or providing financing for insurance reserves 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:

(i) 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; nor

(ii) for industrial development projects if the Authority does not develop industrial projects which will compete with existing industries; nor

(iii) 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 local government unit to improve the business district; nor

(iv) to hospital projects or health centers to be leased to, or financed with loans to, public hospitals, nonprofit corporation health centers or nonprofit hospital corporations serving the public or to school building projects and facilities to be leased to, or financed with loans to, private, nonprofit, nonsectarian secondary schools, colleges and universities, State-related universities and community colleges, or to facilities, limited as described above, to produce steam or to generate electric power, if each municipality organizing an Authority for such a project shall declare by resolution or ordinance that it is desirable for the health, safety and welfare of the people in the area served by such facilities to have such facilities provided by, or financed through an Authority; nor

(v) to provide financing for insurance reserves, if each municipality or Authority intending to use any proceeds thereof shall declare by resolution or ordinance that it is desirable for the health, safety and welfare of the people in such local government unit or served by such Authority; nor

(vi) to projects for financing working capital.

(3) It is the intent of this act in specifying and defining the authorized purposes and projects of an Authority to permit the Authority to benefit the people of this Commonwealth by, among other things, increasing their commerce, health, safety and prosperity while not unnecessarily burdening or interfering with any municipality which has not incorporated or joined that Authority. Therefore, notwithstanding any other provisions of this act, an Authority shall not have as its purpose and shall not undertake as a project solely for revenue-producing purposes the acquiring of buildings, facilities or tracts of land which, in the case of an Authority incorporated or joined by a county or counties, are located either within or outside the boundaries of the county or counties and, in the case of all other Authorities, are located outside the boundaries of the municipality or municipalities that incorporated or joined the Authority, unless either:

(i) the governing body of each municipality in which the project will be undertaken has by resolution evidenced its approval; or

(ii) in cases where the property acquired is not subject to tax abatement, the Authority covenants and agrees with each municipality in which the Authority will acquire real property as part of the project either to make annual payments in lieu of real estate taxes and special assessments for amounts and time periods specified in the agreement or to pay annually the amount of real estate taxes and special assessments

which would be payable if the real property so acquired were fully taxable and subject to special assessments.

(c) 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:

(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 subsection E of section three point two.

(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, 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 purposes of the Authority, and to sell, lease as lessor, transfer and dispose of any property or interest therein at any time acquired by it.

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

(e.1) To finance projects by making loans, which may be evidenced by, and secured as may be provided in, loan agreements, mortgages, security agreements or any other contracts, instruments or agreements, which contracts, instruments or agreements may contain such provisions as the Authority shall deem necessary or desirable for the security or protection of the Authority or its bondholders.

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

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

(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.

(h.1) In the case of an Authority which has agreed to provide water service through a separate meter and separate service line to a residential dwelling unit in which the owner does not reside, the owner shall be liable to pay the tenant's bill for service rendered to the tenant by the Authority only if the Authority notifies the owner and the tenant within thirty days after the bill first becomes overdue. Such notification shall be provided by first class mail to the address of the owner provided to the Authority by the owner and to the billing address of the tenant, respectively. Nothing herein shall be construed to require an Authority to terminate service to a tenant, provided that the owner shall not be liable for any service which the Authority provides to the tenant ninety or more days after the tenant's bill first becomes due unless the Authority has been prevented by court order from terminating service to that tenant.

(h.2) In the case of an Authority which has agreed to provide sewer service to a residential dwelling unit in which the owner does not reside, the Authority shall notify the owner and the tenant within thirty days after the tenant's bill for that service first becomes overdue. Such notification shall be provided by first class mail to the address of the owner provided to the Authority by the owner and to the billing address of the tenant, respectively. Nothing herein shall be construed to relieve the owner of liability for such service unless the Authority fails to provide the notice required herein.

(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, and in respect to any project constructed and operated under agreement with any Authority or any public Authority of any adjoining state, to borrow money and issue such notes, bonds and other evidences of indebtedness and obligations jointly with any such Authority. Notwithstanding any of the foregoing, no Authority shall borrow money on obligations to be paid primarily out of lease rentals or other current revenues other than charges made to the public for the use of the capital projects financed if the net debt of the lessee municipality or municipalities shall exceed any limit provided by any law of the Commonwealth.

(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 or other transactions with any Federal agency, Commonwealth of Pennsylvania, municipality, school district, corporation or Authority.

(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 contract with any municipality, corporation, or any public Authority of this or any adjoining state, on such terms as the said Authority shall deem proper, for the construction and operation of any project which is partly in this Commonwealth and partly in such adjoining state.

(p) To enter into contracts to supply water and other services to and for municipalities that are not members of the Authority, or to and for the Commonwealth of Pennsylvania, municipalities, school districts, persons or authorities, and fix the amount to be paid therefor.

(q) To make contracts of insurance with any insurance company, association or exchange authorized to transact business in the Commonwealth of Pennsylvania, insuring its employes and appointed officers and officials under an individual policy or policies of insurance covering life, accidental death and dismemberment, and disability income or under a policy or policies of group insurance covering life, accidental death and dismemberment, and disability income provided that statutory

requirements for such group insurance, including but not limited to requisite number of eligible employes and/or appointed officers and officials, are met as provided for in section 621.2 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921," and sections 1, 2, 6, 7 and 9 of the act of May 11, 1949 (P.L.1210, No.367)[.], ***known as the "Group Life Insurance Policy Law."***

To make contracts with any insurance company, association or exchange or any hospital plan corporation or professional health service corporation authorized to transact business in the Commonwealth of Pennsylvania, insuring or covering its employes and/or their dependents (but not its appointed officers and officials nor their dependents) for hospital and/or medical benefits; and to contract for its employes (but not its appointed officers and officials) with any insurance company, association or exchange authorized to transact business in the Commonwealth of Pennsylvania granting annuities or to establish, maintain, operate and administer its own pension plan covering its employes (but not its appointed officers and officials).

For such purposes, to agree to pay part or all of the cost thereof including the premiums or charges for carrying such contracts, and to appropriate out of its treasury any money necessary to pay such costs, premiums or charges, or portions thereof. The proper officers of the authority having authority to enter into such contracts are hereby authorized, enabled and permitted to deduct from the officers' or employes' pay, salary or compensation such part of the premium or cost as is payable by the officer or employe and as may be so authorized by the officer or employe in writing.

(r) To charge the cost of construction of any sewer or water main constructed by the Authority against the properties benefited, improved or accommodated thereby to the extent of such benefits. Such benefits shall be assessed in the manner provided by section eleven of this act for the exercise of the right of eminent domain.

(s) To charge the cost of construction of any sewer or water main constructed by the Authority against the properties benefited, improved or accommodated thereby according to the foot front rule. Such charges shall be based upon the foot frontage of the properties so benefited, and shall be a lien against such properties. Such charges may be assessed and collected and such liens may be enforced in the manner provided by law for the assessment and collection of charges and the enforcement of liens of the municipality in which such Authority is located: Provided, That no such charge shall be assessed unless prior to construction of such sewer or water main the Authority shall have submitted the plan of construction and estimated cost to the municipality in which such project is to be undertaken, and the municipality shall have approved such plan and estimated cost: And provided further, That there shall not be charged against the properties benefited, improved or accommodated thereby an aggregate amount in excess of the estimated cost as approved by the municipality.

(s.1) To require the posting of financial security to insure the completion, in accordance with the approved plat and with the rules and regulations of the Authority, of any water mains or sanitary sewer lines, or both, and related apparatus and facilities, required to be installed by or on behalf of a developer pursuant to an approved land development or subdivision plat as such terms are defined in the act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code." If financial security is required by the Authority, and without limitation as to other types of financial security which the Authority may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security. Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, if the bonding company or lending institution is authorized to conduct such business within the Commonwealth. Such bond or other security shall provide for, and secure to the Authority, the completion of any improvements which may be required within one year from the date of posting of the security. The amount of financial security shall be equal to one hundred ten per centum of the cost of the required improvements for which financial security is to be posted. The cost of the required improvements shall be established by submission to the Authority of a bona fide bid or bids from the contractor or contractors chosen by the party posting the financial security or, in the absence of such bona fide bids, the cost shall be established by estimate prepared by the Authority's engineer. If the party posting the financial security requires more than one year from the date of posting of such financial security to complete the required improvements, the amount of financial security may be increased by an additional ten per centum for each one-year period beyond the first anniversary date from the posting of financial security or to one hundred ten per centum of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure. As the work of installing the required improvements proceeds, the party posting the financial security may request the Authority to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Authority, and the Authority shall have forty-five days from receipt of such request within which to allow the Authority engineer to certify, in writing, to the Authority that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification, the Authority shall authorize release by the bonding company or lending institution of an amount as estimated by the Authority engineer fairly representing the value of the improvements completed or, if the Authority

fails to act within said forty-five-day period, the Authority shall be deemed to have approved the release of funds as requested. The Authority may, prior to final release at the time of completion and certification by its engineer, require retention of ten per centum of the estimated cost of the aforesaid improvements. Where the Authority accepts dedication of all or some of the required improvements following completion, the Authority may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat and the Authority's rules and regulations for a term not to exceed eighteen months from the date of acceptance of dedication. Said financial security shall be of the same type as set forth in this clause with regard to installation of the improvements, and the amount of the financial security shall not exceed fifteen per centum of the actual cost of installation of the improvements. Any ordinance, resolution or statute inconsistent herewith is hereby expressly repealed.

(t) To charge certain enumerated fees to property owners who desire to or are required to connect to the Authority's sewer or water system. Such fees shall be based upon the duly adopted fee schedule at the time of payment and shall be payable at the time of application for connection or at such other time as the property owner and the authority agree or in the case of projects to serve existing development, such fees shall be payable at a time to be determined by the Authority. An Authority shall have the right to require that no capacity shall be guaranteed for a property owner or owners until such time as the tapping fees enumerated herein have, at the option of the Authority, been paid or secured by other financial security. The fees shall be in addition to any charges assessed against the property in the construction of a sewer or water main by the Authority in accordance with clauses (r) and (s) as well as any other user charges imposed by the Authority pursuant to clause (h) and shall not include costs included in the calculation of such fees.

(1) The fees may include some or all of the following fee components, which shall be separately set forth in the appropriate resolution of the Authority establishing such fees:

(i) Connection fee. A fee which shall not exceed an amount based upon the actual cost of the connection of the property extending from the Authority's main to the property line or curb stop of the property so connected. The Authority may also base such fee upon an average cost for previously installed connections of similar type and size. In lieu of the payment of the fees, an Authority may require the construction and dedication of those facilities by the property owner or owners requesting such connection.

(ii) Customer facilities fee. A fee which shall not exceed an amount based upon the actual cost of facilities serving the connected property from the property line or curb stop to the proposed dwelling or building to be

served. The fee shall be chargeable only in the event that the Authority and not the property owner or owners installs the customer facilities. In lieu of the payment of the customer facilities fee, an Authority may require the construction of those facilities by the property owner or owners requesting customer facilities. In the case of water service, the fee may include the cost of a water meter and installation if the Authority provides or installs the same. In any case where the property connected or to be connected with the sewer system of the Authority is not equipped with a water meter, the Authority may install such a meter at its own cost and expense; provided, however, that if the property is supplied with water from the facilities of a public water supply agency, the Authority shall not install such meter without the consent and approval of the public water supply agency.

(iii) Tapping fee. A fee which shall not exceed an amount based upon some or all of the following fee components, which shall be separately set forth in the appropriate resolution of the Authority establishing the fee. In lieu of the payment of the fee, an Authority may require the construction and dedication of only such capacity, distribution-collection or special purpose facilities necessary to supply service to the property owner or owners.

(A) Capacity part. A fee for capacity-related facilities which may not exceed an amount that is based upon the cost of such facilities, including, but not limited to, source of supply, treatment, pumping, transmission, trunk, interceptor and outfall mains, storage, sludge treatment or disposal, interconnection or other general system facilities. Such facilities may include those that provide existing service and/or those that will provide future service. The cost of existing facilities, which shall not include facilities contributed to the Authority by any person, government or agency, shall be based upon their replacement cost or upon historical cost trended to current cost using published cost indexes, or upon the historical cost plus interest and other financing fees paid on bonds financing such facilities. In the case of existing facilities, outstanding debt related to the facilities shall be subtracted from the cost, provided however, no debt shall be subtracted which is attributable to facilities exclusively serving new customers. In the case of facilities to be constructed or acquired, the cost of such facilities shall not exceed their reasonable estimated cost provided that any such facilities must be included in a duly adopted annual budget or a five-year capital improvement plan and the Authority has taken action in furtherance of said facilities such as the following:

(I) obtained financing for the facilities;

(II) entered into a contract obligating the Authority to construct or pay for the cost of construction of the facilities or its portion thereof in the event that multiple parties are constructing said facilities;

(III) has obtained a permit for the facilities;

(IV) has spent substantial sums or resources in furtherance of the facilities;

(V) has entered into a contract obligating the Authority to purchase or acquire facilities owned by another;

(VI) has prepared an engineering feasibility study specifically related to the facilities, which study recommends the construction of the facilities within a five-year period;

(VII) has entered into a contract for the design of the facilities.

Under all cost approaches, the cost of said facilities shall be reduced by the amount of any grants or capital contributions which have financed such facilities. The capacity part of the tapping fee per unit of capacity required by the new customer shall not exceed the cost of the facilities as described herein divided by the design capacity of the facilities. Nothing contained herein shall prevent an Authority from allocation of its capacity-related facilities to different sections or districts of its system, nor shall an Authority be prohibited from imposing additional capacity-related tapping fees on specific groups of existing customers such as commercial and industrial customers, in conjunction with additional capacity requirements of such customers.

(B) Distribution or collection part. A fee which may not exceed an amount based upon the cost of distribution or collection facilities required to provide service, such as mains, hydrants and pumping stations. Such facilities may include those that provide existing service and/or those that will provide future service. The cost of existing facilities, which shall not include facilities contributed to the Authority by any person, government or agency, shall be based upon their replacement cost or upon historical cost trended to current cost using published cost indexes or upon the historical cost plus interest and other financing fees paid on bonds financing such facilities. In the case of existing facilities, outstanding debt related to the facilities shall be subtracted from the cost, provided however, no debt shall be subtracted which is attributable to facilities exclusively serving new customers. In the case of facilities to be constructed or acquired, the cost of such facilities shall not exceed their reasonable estimated cost. Under all cost approaches, the cost of said facilities shall be reduced by the amount of any grants or capital contributions which have financed such facilities. The distribution or collection part of the tapping fee per unit of capacity required by the new customer shall not exceed the cost of the facilities as described herein divided by the design capacity of the facilities. Nothing contained herein shall prevent an Authority from allocation of its distribution or collection-related facilities to different sections or districts of its system, nor shall an Authority be prohibited from imposing additional distribution or collection-related tapping fees on specific groups of existing customers such as commercial and industrial customers, in conjunction with additional capacity requirements of such customers.

(C) Special purpose part. Fees for special purpose facilities applicable only to a particular group of customers, or serving a particular purpose and/or serving a specific area, based upon the cost of such facilities,

including, but not limited to, booster pump stations, fire service facilities and industrial wastewater treatment facilities. Such facilities may include those that provide existing service and/or those that will provide future service. The cost of existing facilities, which shall not include facilities contributed to the Authority by any person, government or agency, shall be based upon their replacement cost or upon historical cost trended to current cost using published cost indexes or upon the historical cost plus interest and other financing fees paid on bonds financing such facilities. In the case of existing facilities, outstanding debt related to the facilities shall be subtracted from the cost, provided however, that no debt shall be subtracted which is attributable to facilities exclusively serving new customers. In the case of facilities to be constructed or acquired, the cost of such facilities shall not exceed their reasonable estimated cost. Under all cost approaches, the cost of said facilities shall be reduced by the amount of any grants or capital contributions which have financed such facilities. The special purpose part of the tapping fee per unit of capacity required by the new customer shall not exceed the cost of the facilities as described herein divided by the design capacity of the facilities. Nothing contained herein shall prevent an Authority from allocation of its special purpose-related facilities to different sections or districts of its system, nor shall an Authority be prohibited from imposing additional special purpose-related tapping fees on specific groups of existing customers such as commercial and industrial customers, in conjunction with additional capacity requirements of such customers.

(D) Reimbursement component. An amount necessary to recapture the allocable portion of facilities in order to reimburse the property owner or owners at whose expense such facilities were constructed, as set forth in clauses (z.1) and (z.2) hereof.

(E) Calculation of tapping fee components. (I) In arriving at the cost to be included in the tapping fee components, the same cost shall not be included in more than one part of the tapping fee.

(II) No tapping fee may be based upon or include the cost of expanding, replacing, updating or upgrading facilities serving existing customers in order to meet stricter efficiency, environmental, regulatory or safety standards or to provide better service to, or meet the needs of, existing customers.

(III) The cost used in calculating tapping fees shall not include maintenance and operation expenses. As used in this clause, "maintenance and operation expenses" are those expenditures made during the useful life of a sewer or water system for labor, materials, utilities, equipment accessories or appurtenances and other items which are necessary to manage and maintain the system capacity and performance and to provide the service for which the system was constructed.

(2) Every Authority charging a tapping, customer facilities or connection fee shall do so at a public meeting of the Authority. The

Authority shall have available for public inspection a detailed itemization of all calculations clearly showing the manner in which the fees were determined. A revised tapping, customer facilities or connection fee may be imposed upon those who subsequently connect to the system.

(3) No Authority shall have the power to impose any connection fee, customer facilities fee, tapping fee or any similar fee except as provided specifically in this section.

(4) A municipality or municipal authority with available excess sewage capacity, wishing to sell a portion of that available capacity to another municipality or municipal authority, shall not charge a higher cost for the capacity portion of the tapping fee as the selling entity charges to its customers for the capacity portion of the tapping fee. In turn, the municipality or municipal authority buying this excess capacity cannot charge a higher cost for the capacity portion of the tapping fee to its residential customers than that charged to them by the selling entity. For purposes of this section, residential customer will also include those developing property for residential dwellings that require multiple tapping fee permits. This section shall not be applicable to intermunicipal or interauthority agreements relative to the purchase of excess capacity by an Authority or municipality in effect prior to the effective date of this subclause.

(u) Subject to the approval of the Pennsylvania Public Utility Commission before which an Authority may institute proper proceedings to construct tunnels, bridges, viaducts, underpasses, or other structures, and relocate the facilities of public service companies to effect or permit the abolition of a grade crossing or grade crossings: Provided, however, That such project or projects shall only be undertaken in accordance with a duly issued order of the Pennsylvania Public Utility Commission, which order shall provide that any portion of the costs payable by any public utility, political subdivision, or by the Commonwealth, or others, shall be payable to the Authority: And provided further, That before any proceedings are instituted before the commission to secure its requisite approval for any structure herein provided, an agreement, which is hereby authorized, shall be entered into between the Authority and the public utilities or the political subdivisions concerned to provide for the conveyance to the Authority of title to the land, structure or improvement involved as security for bonds issued to finance the improvement and the leasing thereof to the utility or utilities or the political subdivision or subdivisions involved, on such terms as will provide for interest and sinking fund charges on the bonds issued for the improvement.

(v) To appoint police officers who shall have the same rights as other peace officers in the Commonwealth with respect to the property of the Authority.

(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 value of the benefited property to the total 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.

(x) To adopt rules and regulations that would provide for the safety of persons using the facilities of an airport Authority pertaining to vehicular traffic control. Such rules and regulations shall be enforced by the police officers appointed under clause (v).

(y) To provide financing for insurance reserves by making loans, which may be evidenced by, and secured as may be provided in, loan agreements, security agreements or any other instruments or agreements, which

instruments or agreements may contain such provisions as the Authority shall deem necessary or desirable for the security or protection of the Authority or its bondholders.

(z) Where a sewer or water system of an Authority is to be extended at the expense of the owner or owners of properties or where the Authority otherwise would construct the customer facilities referred to in clause (t)(1)(ii) (other than water-meter installation), the property owner or owners shall have the right to construct the extension or install the customer facilities himself or themselves or through a subcontractor approved by the Authority, which approval shall not be unreasonably withheld: Provided That the Authority shall have the right, at its option, to perform the construction itself only if the Authority provides the extension or customer facilities at a lower cost and within the same timetable specified or proposed by the property owner or owners or his or their approved subcontractor. Construction by the property owner or owners shall be in accordance with an agreement for the extension of the Authority's system and plans and specifications approved by the Authority and shall be undertaken only pursuant to the existing regulations, requirements, rules and standards of the Authority applicable to such construction and shall be further subject to inspection by an inspector authorized to approve such construction and employed by the Authority during construction. When a main is to be extended at the expense of the owner or owners of properties, the property owner or owners may be required to deposit with the Authority, in advance of construction, the Authority's estimated reasonable and necessary cost of reviewing plans, construction inspections, administrative, legal and engineering services. The Authority may require that construction shall not commence until the property owner has posted appropriate financial security in accordance with clause (s.1). The Authority may prescribe that the property owner or owners shall reimburse the Authority for reasonable and necessary expenses incurred as a result of the extension. If an independent firm is employed for engineering review of the plans and the inspection of improvements, reimbursement for such services shall be reasonable and in accordance with the ordinary and customary fees charged by the independent firm for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the independent firm to the Authority when fees are not reimbursed or otherwise imposed on applicants. Upon completion of construction, the property owner or owners shall dedicate and the Authority shall accept the extension of the Authority's system, provided dedication of facilities and the installation complies with the plans, specification, regulations of the Authority and the agreement. An Authority may provide in its regulations those facilities which, having been constructed at the expense of the owner or owners of properties, the Authority will accept as a part of its system.

(z.1) Where a property owner constructs or causes to be constructed at his expense any extension of a sewer or water system of an Authority, the

Authority shall provide for the reimbursement to the property owner when the owner of another property not in the development for which the extension was constructed connects a service line directly to the extension within ten years of the date of the dedication of such extension to the Authority in accordance with the following provisions:

(1) Such reimbursement shall be equal to the distribution or collection part of each tapping fee collected as a result of subsequent connections. An Authority shall be entitled to deduct from each reimbursement payment an amount equal to five per centum which shall be deemed to represent the appropriate charge for administrative expenses and services rendered in calculating, collecting, monitoring and disbursing the reimbursement payments to the property owner entitled thereto.

(2) Reimbursement shall be limited to those lines which have not previously been paid for by the Authority.

(3) The Authority shall, in the preparation of the necessary reimbursement agreement with the property owner or owners for whose benefit reimbursement will be provided, attach as an exhibit an itemized listing of all sewer and water facilities for which reimbursement shall be provided.

(4) The total reimbursement to which a property owner or owners shall be entitled shall not exceed the cost of all labor and material, engineering design charges, the cost of performance and maintenance bonds, Authority review and inspection charges, as well as flushing and televising charges and any and all charges involved in the acceptance and dedication of such facilities by the Authority, less the amount which would be chargeable to such property owner based upon the Authority's collection and distribution tapping fees which would be applicable to all lands of the property owner served directly or indirectly through such extensions if the property owner did not fund the extension.

(5) An Authority shall be required to notify by certified mail, to their last known address, the property owner or owners for whose benefit such reimbursement shall apply within thirty days of the Authority's receipt of any such reimbursement payment. In the event that the property owner or owners have not claimed a reimbursement payment within one hundred twenty days of the mailing of the notice, the payment shall revert to and become the sole property of the Authority with no further obligation on the part of the Authority to refund the payment to the property owner or owners.

(z.2) Whenever a sewer system or water system or any part or extension thereof owned by an Authority has been constructed by the Authority at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the Authority at the expense of the private person or corporation, the Authority shall have the right to charge a tapping fee and refund said tapping fee or any part thereof to the person or corporation who has paid for the construction of said sewer or water system or any part or extension thereof.

(z.3) Provisions of clauses (z), (z.1) and (z.2) shall also be applicable to residential customers in a municipality where the sewer service is being purchased by the municipality or sewer Authority from another municipality or sewer Authority having excess sewage capacity.

* * *

Section 2. Section 7A of the act, amended March 14, 1978 (P.L.12, No.7), is amended to read:

Section 7. Governing Body.—A. The powers of each Authority shall be exercised by a governing body (herein called the "Board") composed as follows:

(a) If the Authority is incorporated by one municipality the board shall consist of such number of members not less than five as shall be set forth in the articles of incorporation or amendment thereto. The governing body of such municipality shall appoint the members of the board, whose terms of office shall commence on the date of appointment. One member shall serve for one year, one for two years, one for three years, one for four years and one for five years from the first Monday in January next succeeding the date of incorporation or amendment, and if there are more than five members of the board, their terms shall be staggered in a similar manner for terms of from one to five years from the first Monday in January next succeeding. Thereafter whenever a vacancy has occurred by reason of the expiration of the term of any member, the said governing body shall appoint a member of the board for a term of five years from the date of expiration of the prior term to succeed the member whose term has expired.

(b) If the Authority is incorporated by two or more municipalities, the board shall consist of a number of members at least equal to the number of municipalities incorporating the Authority, but in no event less than five. When one or more additional municipalities join an existing Authority, each of such joining municipalities shall have such membership on the board as the municipalities then members of the Authority and the joining municipalities may determine by appropriate resolutions. The members of the board of a joint Authority shall each be appointed by the governing body of the incorporating or joining municipality he represents and their terms of office shall commence on the date of appointment. One member shall serve for one year, one for two years, one for three years, one for four years and one for five years from the first Monday in January next succeeding the date of incorporation, amendment or joinder, and if there are more than five members of the board, their terms shall be staggered in a similar manner for terms of from one to five years from the first Monday in January next succeeding. Thereafter, whenever a vacancy has occurred by reason of the expiration of the term of any member, the governing body of the municipality which has the power of appointment shall appoint a member of the board for a term of five years from the date of expiration of the prior term.

Except as herein provided for transit authorities created for the purpose of eliminating grade crossings the members of the board, each of whom shall be a **[taxpayer in, maintain a business in, or be a citizen]** ***resident*** of the municipality by which he is appointed **[or be a taxpayer in, maintain a business in, or be a citizen of a municipality into which one or more of the projects of the Authority extends or is to extend or to which one or more of said projects has been or is to be leased]**, shall be appointed, their terms fixed and staggered, and vacancies filled, and where two or more municipalities are members of the Authority, shall be apportioned in such manner as the articles of incorporation, the amendments thereof or the application for membership required by section three point one of this act **[shall provide not more than one non-resident shall be appointed to any board]**.

If the Authority, is created for the purpose of eliminating grade crossings, the members of the board, the majority of whom shall be citizens of the municipality by which they are appointed or of a municipality into which one or more of the projects of the Authority extends or is to extend or to which one or more of said projects has been or is to be leased, shall be appointed, their terms fixed and staggered, and vacancies filled, and where two or more municipalities are members of the Authority, shall be apportioned in such manner as the articles of incorporation, the amendments thereof or the application for membership required by section 3.1 of this act shall provide.

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Section 3. This act shall take effect in 60 days.

APPROVED—The 20th day of December, A.D. 2000.

THOMAS J. RIDGE