

No. 465

AN ACT

To promote the welfare of the people of this Commonwealth; creating Port Authorities to function in counties of the second class as bodies corporate and politic, with power to plan, acquire, construct, maintain and operate facilities and projects for the improvement and development of the port district 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 the authorities; authorizing the 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 and services; and authorizing the authorities to collect tolls, fares, fees, rentals and charges for the use of facilities; defining the authorities' powers and duties, and defining the port districts.

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

Legislative find-
ings.

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

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

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

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

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

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

(6) That the establishment of a port authority will promote the public safety, convenience and welfare.

(7) That it is intended that the authority cooperate with all existing transportation facilities, that private enterprise and government may mutually provide adequate port facilities for the convenience of the public.

Therefore, it is hereby declared to be the policy of the Commonwealth of Pennsylvania to promote the safety and welfare of the inhabitants thereof by the

* "of" in original.

creation of a body corporate and politic for each second class county, to be known as The Port of (insert name county) Authority, which shall exist and operate for the purposes contained in this act. Such purposes are hereby declared to be public uses for which public money may be spent and private property may be acquired by the exercise of the power of eminent domain.

Section 2. As used in this act:

Definitions.

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

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

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

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

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

(6) The term "construction" shall mean and include acquisition and construction, and the term "to construct" shall mean and include to acquire and to construct all in such manner as may be deemed desirable.

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

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

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

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

(11) The term "terminal" shall include any marine, motor truck, railroad and air terminal, also any coal, grain, bulk liquids and lumber terminal and any union, freight and other terminals, used or to be used, in connection with the transportation or transfer of freight and equipment, materials and supplies.

(12) The term "port facility or facility" shall include all real and personal property used in the operation of a terminal, including, but without being limited to, wharves, piers, slips, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, float-bridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil and fresh water stations, railroads, motor trucks, floating elevators, airports, barges, scows or harbor craft of any kind, markets and every kind of terminal storage or supply facility, now in use or hereafter designed for use, to facilitate transportation and for the handling, storage, loading or unloading of freight at terminals, and equipment, materials and supplies therefor.

Words importing the singular number include the plural number and vice versa.

Creation of Port Authority in counties of second class with enumerated powers.

Section 3. (a) There are hereby created bodies corporate and politic in counties of the second class, to be known as Port of (Name of county) Authority, which shall constitute public bodies corporate and politic, exercising the public powers of the Commonwealth as an agency thereof. Each authority shall be for the purpose of planning, acquiring, holding, constructing, improving, maintaining and operating, owning, leasing, either as lessor or lessee, port facilities within the port district.

(b) Each 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 or powers:

(1) To have perpetual existence.

(2) To sue and be sued, implead and be impleaded, complain and defend in all courts, to petition the Interstate Commerce Commission (or like body) or join in any proceeding before any such bodies or courts in any matter affecting the operation of any project of the authority.

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

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

(5) 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, required by it.

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

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

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

(9) To fix, alter, change and collect rates, rentals and other charges for its facilities at reasonable rates to be determined exclusively by it, subject to appeal, as hereinafter provided, for the purpose of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance and operation of its facilities and properties, the payment of the principal and interest on its obligations, and to comply fully with the terms and provisions of any agreements made with the purchasers or holders of any such obligations. The authority shall determine by itself exclusively, the facilities to be operated by it and the services to be available to the public. Any person questioning the reasonableness of any rate fixed by an authority may bring suit against the authority in the court of common pleas of the county wherein the facilities are located. The court of common pleas shall have exclusive jurisdiction to determine the reasonableness of rates and other charges fixed, altered, charged or collected by an authority. Appeals may be taken to the Superior Court within thirty days after the court of common pleas has rendered a final decision.

(10) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations 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, rentals 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.

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

(12) 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 or corporation.

(13) To have the power of eminent domain.

(14) 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.

(15) To do all acts and things necessary 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.

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

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

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

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

Bonds of the Authority authorized with requirements and conditions.

Section 4. The bonds of the authority, hereinabove referred to and authorized to be issued, shall be authorized by resolution of the board and shall be of such series, bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding six percent per annum, payable semi-annually, be in such denominations, be in such form, either coupon or fully registered without coupons, carry such registration, exchangeability and interchangeable privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption, at such prices not exceeding one hundred five percent of the principal amount thereof, and be entitled to such priorities in the revenues, rentals or receipts of the authority as such resolution or resolutions may provide. The bonds shall be signed by such officers as the authority shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, all as may be prescribed

in such resolution or resolutions. The bonds may be issued and delivered, notwithstanding that one or more of the officers signing the bonds or the treasurer, whose facsimile signature shall be upon the coupon, or any officer thereof, shall have ceased to be such officer at the time when the bonds shall actually be delivered.

The bonds may be sold at public or private sale, for such price or prices as the authority shall determine, but the interest cost to maturity of any money received for any issue of said bonds shall not exceed six percent per annum. Pending the preparation of the definitive bonds, interim receipts or temporary bonds may be issued to the purchaser or purchasers of the bonds and may contain such terms and conditions as the authority may determine.

Sale of bonds and interim bonds.

Any resolution or resolutions, authorizing any bonds, may contain provisions which shall be part of the contract with the holders thereof as to (1) pledging the full faith and credit of the authority for such obligations, or restricting the same to all or any of the revenues, rentals or receipts of the authority from all or any facilities, (2) the construction, improvement, operation, extension, enlargement, maintenance and repair of the facilities and the duties of the authority with reference thereto, (3) the terms and provisions of the bonds, (4) limitations on the purposes to which the proceeds of the bonds, then or thereafter to be issued, or of any loan or grant of the United States may be applied, (5) the rate of tolls, rentals and other charges for use of the facilities of or for the services rendered by the authority, including limitations upon the power of the authority to modify any lease or other agreement, pursuant to which tolls, rentals or other charges are payable, (6) the setting aside of reserves or sinking funds and the regulations and disposition thereof, (7) limitations on the issuance of additional bonds, (8) the terms and provisions of any deed of trust or indenture securing the bonds or under which the same may be issued, and (9) any other or additional agreements with holders of the bonds.

Resolutions authorizing bonds.

The authority may enter into any deeds of trust indentures or other agreements with any bank or trust company or any person or persons in the United States having power to enter into the same, including any Federal agency as security for such bonds, and may assign and pledge any or all of the revenues, rentals or receipts of the authority thereunder. The deed of trust indenture or other agreement may contain such provisions as may be customary in such instruments or as the authority may authorize, including, but without limitation,

Deeds of trust indentures.

provision as to (1) the construction, improvement, operation, maintenance and repair of facilities and the duties of the authority with reference thereto, (2) the application of funds and the safeguarding of funds on hand or on deposit, (3) the rights and remedies of said trustees and the holders of the bonds (which may include restrictions upon the individual right of action upon such bondholders), and (4) the terms and provisions of the bonds or the resolutions authorizing the issuance of the same.

The bonds shall have all the qualities of negotiable instruments under the law of merchants and the Uniform Commercial Code of the Commonwealth of Pennsylvania.

Additional rights
of bondholders.

Section 5. The rights and remedies, hereinafter conferred upon or granted to the bondholders, shall be in addition to, and not in limitation of, any rights and remedies lawfully granted to such bondholders by the resolution or resolutions providing for the issuance of bonds or by any deed of trust indenture or other agreement under which the same may be issued. In the event that the authority shall default in the payment of principal or interest on any of the bonds after such principal or interest shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in event the authority shall fail or refuse to comply with the provisions of this act or shall default in any agreement made with the holders of the bonds, the holders of twenty-five per centum in the aggregate of the principal amount of the bonds then outstanding by instrument or instruments filed in the office of the recorder of deeds of the county and proved or acknowledged in the same manner as a deed to be recorded, may (except as such right may be limited under the provisions of any deed of trust indenture or other agreement as aforesaid) appoint a trustee to represent the bondholders for the purposes herein provided.

Trustee authorized to take certain actions.

The trustee and any trustee under any deed of trust indenture or other agreement may and, upon written request of the holders of twenty-five per centum (or such other percentages as may be specified in any deed of trust indenture or other agreement aforesaid) in principal amount of the bonds then outstanding, shall in his or its own name, (1) by mandamus or other suit, action or proceeding, at law or in equity, enforce all rights of the bondholders, including the right to require the authority to collect rates, rentals or other charges, adequate to carry out any agreement as to, or pledge of, the revenues or receipts of the authority, and to require the authority to carry out any other agreements with

or for the benefits of the bondholders and to perform its and their duties under this act, (2) bring suit upon the bonds, (3) by action or suit in equity require the authority to account as if it were the trustee of an express trust for the bondholders, (4) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the bondholders, and (5) by notice in writing to the authority declare all bonds due and payable and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum (or such other percentage as may be specified in any deed of trust indenture or other agreement aforesaid) of the principal amount of the bonds then outstanding to annul such declaration and its consequences.

The court of common pleas of the county wherein the authority is located shall have jurisdiction of any suit, action or proceedings by the trustees on behalf of the bondholders. Any trustee, when appointed as aforesaid or acting under a deed of trust indenture or other agreement and whether or not all bonds have been declared due and payable, shall be entitled as of right to the appointment of a receiver, who may (to the same extent that the authority itself could so do) enter and take possession of the facilities of the authority or any part or parts thereof, the revenues, rentals or *receipts from which are or may be applicable to the payment of the bonds so in default and operate and maintain the same and collect and receive all rentals and other revenues thereafter arising therefrom in the same manner as the authority or board might do, and shall deposit all such moneys in a separate account and apply the same in such manner as the court shall direct. In any suit, action or proceeding by the trustee, the fees, counsel fees and expenses of the trustee and of the receiver, if any, and all costs and disbursements allowed by the court shall be a first charge on any revenues, rentals and receipts derived from the facilities of the authority, the revenues or receipts from which are or may be applicable to the payment of the bonds so in default. Said trustee shall, in addition to the foregoing, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of the bondholders in the enforcement and protection of their rights.

Jurisdiction.

Nothing in this act shall authorize any receiver appointed pursuant to this act for the purpose of operating and maintaining any facilities of the authority, to sell, assign, mortgage or otherwise dispose of any of the

Limitation of powers of a receiver.

* "receipts" in original.

assets of whatsoever kind and character, belonging to the authority. It is the intention of this act to limit the powers of such receiver to the operation and maintenance of the facilities of the authority, as the court may direct, and no holder of the bonds of the authority nor any trustee shall ever have the right in any suit, action or proceedings, in law or in equity, to compel a receiver, nor shall any receiver ever be authorized or any court be empowered to direct a receiver to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character belonging to the authority.

Creation, com-
position, appoint-
ment of a board.

Section 6. The powers of the authority shall be exercised by a board, composed of the number of members, not more than eight, as shall be fixed by the county commissioners of each county of the second class. The county commissioners of each county of the second class 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, and one for four years, from the first day of January next succeeding the date of approval of this act, and if there are more than four members of the board their terms shall be staggered in a similar manner. Thereafter, whenever a vacancy has occurred or is about to occur by reason of the expiration of the term of any member, the county commissioners shall appoint a member for a term of five years to succeed the member whose term has expired or is about to expire. Members shall hold office until their successors have been appointed, and may succeed themselves. A member shall receive no compensation for his services, but shall be entitled to the necessary expenses, including traveling expenses incurred in the performance of his duties. Within ninety days after the creation of the authority, the board shall meet and organize by electing from their number a chairman, a vice chairman and such other officers as the board may determine. The board may employ a secretary, an executive director, its own counsel and legal staff and such technical experts and other agents and employes, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation of such persons. Four members of the board shall constitute a quorum for its meetings. Members of the board shall not be liable personally on the bonds or other obligations of the authority, and the rights of creditors shall be solely against such authority. The board may delegate to one or more of its agents or employes such of its powers as it shall deem necessary to carry out the purposes of this act, subject always to the supervision and control of the

board. The board shall have full authority to manage and operate the business of the authority and to prescribe, amend and repeal by-laws, rules and regulations governing the manner in which the business of the authority may be conducted and the powers granted to it may be exercised and embodied.

If a vacancy occurs by reason of the death, resignation or removal of a member, the board of county commissioners shall appoint a successor to fill his unexpired term.

Section 7. The authority shall have the power to acquire, by purchase or eminent domain proceeding, either the fee or such right, title, interest or easement in such lands as the authority may deem necessary, whether for immediate or future use, for any of the purposes mentioned in this act, and the authority may find and determine that such property, whether a fee simple, absolute or lessee interest, is required for public use, and upon such determination the said property shall be deemed to be required for a public use until otherwise determined by the authority, and the said determination shall not be affected by the fact that such property has heretofore been taken for, or is then devoted to, a public use, but the public use in the hands or under the control of the authority shall be deemed superior to the public use in the hands or under the control of any other person, association or corporation, except that the facilities of public utilities shall not be taken until provision has been made for their relocation.

Authority empowered to acquire property.

When the authority desires to acquire land to carry on its purposes and a price for such lands, or the interest therein desired, cannot be agreed upon with the owner or owners thereof, or when the owner or owners cannot be found, in all such cases the authority is authorized to acquire the land or the interest therein desired by eminent domain proceedings.

Eminent domain proceedings authorized.

Thereupon, the authority may apply to the court of common pleas of the county wherein the lands are located for the appointment of viewers. The application for the appointment of viewers shall recite (1) the failure of the parties to agree to a price for the lands, or interest therein desired, or the owner or owners thereof cannot be found, (2) a statement of the authority under which and the purpose for which the lands or interest therein are taken, (3) a statement of the estate or interest in the lands taken, (4) a description and plan of the lands taken, and (5) a statement of the names and addresses, if known, of the owners of the land.

Upon the court's order appointing viewers, being made and duly entered in the office of the prothonotary, as well as recorded in the offices of the recorder of deeds in the county wherein the land is situated, the title to the land in fee simple, absolute or a less estate, right, title, interest or easement therein as is specified in the applications shall vest in the authority, and the lands shall thereupon be deemed to be condemned and taken for the use of the authority, and the authority shall forthwith have the right to enter on and use same, subject to the right to just compensation to the owners thereof as ascertained and awarded in the condemnation proceedings and established by judgment therein, and the judgment shall include, as part of the just compensation, awarded interest at the rate of six per centum per annum on the amount finally awarded as the value of the land in fee simple, absolute or less estate, right, title, interest or easement therein, as of the date of the filing of the order made for the appointment of viewers to the date of final judgment thereon.

The court shall have the power to make such orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable.

Appointment of
viewers.

The court shall appoint three viewers and shall approve a time, not less than twenty nor more than thirty days, after the presentation of the petition for the appointment when the viewers shall meet upon the lands and view the same and all improvements in connection therewith.

The viewers shall give at least ten days notice of their first meeting to the chairman of the authority and to the owners of such land, if known. If the owners of such lands are unknown, notice shall be given in at least two newspapers of general circulation in such manner as the court may direct. The viewers, having been sworn or affirmed, faithfully, justly and impartially to decide and a true report to make concerning all matters to be submitted to them in relation to which they are authorized to inquire, and having viewed the lands and premises, shall hear the parties and their witnesses and shall estimate and determine the value of the property so taken. Where the owner of the lands and premises is unknown, the viewers shall estimate and determine the value of the land and improvements upon the testimony of the witnesses for the authority and any witnesses called by the viewers.

When the report is filed, notice thereof shall immediately be given to the chairman of the authority and to the owners of the land, where known, which notice

shall state that unless exceptions be filed thereto within thirty days after the filing of the report, the same will be confirmed absolutely.

Where any owners of such lands are unknown, notice shall be given in at least two newspapers of general circulation in such manner as the court shall direct.

Within thirty days after the filing of any report, the authority or the owners of the lands may file exceptions to the same, and the court shall confirm, modify or change the report or refer the same back to the same or new viewers.

When the report is filed, the prothonotary shall mark it "confirmed nisi." In case no exceptions are filed thereto, within the time herein specified, the court shall make a decree that the report is confirmed absolutely, which decree shall be entered by the prothonotary.

Within thirty days after any report of viewers is filed under this act, the authority or the owners of such land may appeal to the court of common pleas and demand a trial by jury. Within six months after a confirmation absolute on exceptions or within six months after a verdict and final judgment on appeal for a jury trial, the chairman of the authority or the owners of such land may appeal to the supreme or to the superior court as in other cases.

When the amount payable to the owner of the land has been finally determined, the same shall be paid by the authority from its funds. All costs in connection with the proceedings shall be paid by the authority in like manner.

In all cases where the owners of lands are unknown and the report of viewers has been finally confirmed, the authority shall be liable for all damages awarded therein. If at any time after the final confirmation of the report of viewers, any person appears and proves title to said lands, such persons shall be entitled to and receive from the authority the sum so awarded by the viewers. Any claimant of the land may petition the court of common pleas of the county wherein the land is located, giving a brief outline of the facts upon which the claim is based. Thereupon, the court shall direct an issue to be framed, wherein the claimant shall appear as plaintiff and the authority as defendant. The issue shall be tried according to the rules of procedure and evidence governing trials in ejectment with a right of appeal by either party to the proper appellate court. If the final judgment on such issue is in favor of the plaintiff, the sum awarded by the report as finally confirmed shall be paid by the authority to the claimant.

The party to the action against whom the judgment is entered shall be liable for the costs as provided by law in other civil actions.

Court proceedings necessary to acquire property or property rights for the purpose of this act shall take precedence over all causes not involving the public interest in all courts to the end that the development of port facilities be expedited.

Money of Authority to be paid to the treasurer who shall make deposits.

Section 8. All moneys of the authority, from whatever source derived, shall be paid to the treasurer of the authority. The moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts, and each of such special accounts to the extent the same is not insured shall be continuously secured by a pledge of direct obligations of the United States of America or of the Commonwealth of Pennsylvania, having an aggregate market value exclusive of accrued interest, at all times, at least equal to the balance on deposit in such account. The securities shall either be deposited with the treasurer or held by a trustee or agent satisfactory to the authority. All banks and trust companies are authorized to give such security for such deposits. The moneys in said accounts shall be paid out on the warrant or other order of the chairman of the authority or of such other person or persons as the authority may authorize to execute such warrants or orders. The authority shall have at least an annual examination of its books, accounts and records by a certified public accountant. A copy of the audit shall be delivered to the board of county commissioners*. A concise financial statement shall be published annually, at least once in a newspaper of general circulation in the county where the principal office of the authority is located.

Construction by Authority in excess of \$750 to be by contract excepting certain reconstruction.

Section 9. All construction, reconstruction, repairs or work of any nature, made by the authority, where the entire cost, value or amount of such construction, reconstruction, repairs or work, including labor and materials, shall exceed seven hundred fifty dollars (\$750), except reconstruction, repairs or work done by employes of the authority or by labor supplied under agreement with any Federal or State agency, with supplies or materials purchased, as hereinafter provided, shall be done only under contract or contracts, with the lowest responsible bidder, upon proper terms, after due public notice has been given asking for competitive bids, as hereinafter provided. No contract shall be entered into for construction, improvement or repair of any

* "of the Commonwealth of Pennsylvania" deleted from original.

facility or portion thereof, unless the contractor shall give an undertaking with sufficient surety or sureties approved by the authority and in an amount fixed by the authority for the faithful performance of the contract. All such contracts shall provide, among other things, that the person or corporation entering into such contract with the authority will pay for all labor and materials furnished for the performance of the contract, and that any person or corporation furnishing such labor and materials may maintain an action to recover for the same against the obligor in the undertaking as though such person or corporation was named therein, provided the action is brought within one year after the time the cause of action accrued. Nothing in this section shall be construed to limit the power of the authority to construct, repair or improve any facility or portion thereof, or any addition, betterment or extension thereto directed by the officers, agents and employes of the authority or otherwise than by contract.

All supplies and materials costing seven hundred fifty dollars (\$750) or more shall be purchased only after due advertisement, as hereinafter provided. The authority shall accept the lowest bid or bids, kind, quality and material being equal, but the authority shall have the right to reject any or all bids or select a single item from any bid. The provisions as to bidding shall not apply to the purchase of patented and manufactured products, offered for sale in a non-competitive market or solely by a manufacturer's authorized dealer, nor to the purchase of articles where there is only a single supplier or manufacturer of such article. Bidding.

The term "advertisement" or "due public notice," wherever used in this section, shall mean a notice published at least ten days before the award of any contract in a newspaper of general circulation, published in the municipality where the authority has its principal office, and if no newspaper is published therein, then by publication in a newspaper in the county where the authority has its principal office. Advertisement.

No member of the authority, or officer or employe thereof, shall, either directly or indirectly, be a party to, or be in any manner interested in, any contract or agreement with the authority for any matter, cause or things whatsoever by reason whereof any liability or indebtedness shall in any way be created against the authority. If any contract or agreement shall be made in violation of the provisions of this section, the same shall be null and void, and no action shall be maintained thereon against such authority. Incompatible interests or actions.

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

Limitation on Authority in use of facilities and operations for protection of security holders.

Section 10. The use of the facilities of the authority and the operation of its business shall be subject to the rules and regulations adopted from time to time by the authority, but the authority shall not be authorized to do anything which will impair the security of the holders of the obligations of the authority or violate any agreements with them or for their benefit.

Pledge by the Commonwealth.

Section 11. The Commonwealth does hereby pledge to, and agree with any person, firm or corporation or Federal agency subscribing to or acquiring the bonds to be issued by the authority for the construction, extension, improvement or enlargement of any facility, or part thereof, that the Commonwealth will not limit or alter the rights hereby vested in the authority, until all bonds, at any time issued, together with the interest thereon, are fully met and discharged. The Commonwealth of Pennsylvania does further pledge to, and agree with the United States and any other Federal agency, that in the event any Federal agency shall construct or contribute any funds for the construction, extension, improvement or enlargement of any facility, or portion thereof, the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the continued maintenance and operation of the facility, or the improvement thereof, or which would be inconsistent with the due performance of any agreements between the authority and any such Federal agency, and the authority shall continue to have and may exercise all powers herein granted, so long as the same may be necessary or desirable for the carrying out of the purposes of this act and the purposes of the United States in the construction or improvement or enlargement of the facility or such portion thereof.

Section 12. The effectuation of the authorized purposes of any authority created under this act, shall and

will be in all respects for the benefit of the people of the Commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions; and since the authority will be performing essential government functions in effectuating such purposes, the authority shall not be required to pay any taxes or assessments upon any property acquired or used by it for such purposes. In lieu of taxes or special assessments, the authority may agree to make payments to any municipality. The bonds issued by the authority, their transfer and the income therefrom, including any profits made on the sale therefrom, shall at all times be free from taxation, other than inheritance and estate taxation, within the Commonwealth of Pennsylvania.

Bonds not tax-
able within
Commonwealth.

Section 13. Any municipality or owner is hereby authorized to sell, lease, lend, grant or convey to the authority, any facility or any part or parts thereof, or any interest in real or personal property which may be used by the authority in the construction, improvement, maintenance or operation of any facility. Any municipality is also authorized to transfer, sell, assign and set over to the authority any contracts which may have been awarded by such municipality for the construction of facilities not begun, or if begun, not completed.

Section 14. The provisions of this act shall be severable, and if any of the provisions thereof shall be held to be unconstitutional, such decision shall not affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included therein.

Severability.

APPROVED—The 6th day of April, A. D. 1956.

GEORGE M. LEADER

No. 466

AN ACT

Providing for and regulating the licensing of poultry technicians by the Secretary of Agriculture for the drawing of blood from poultry to be used in pullorum testing programs.

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

Section 1. The Secretary of Agriculture, when he determines that there is a need for trained technicians to aid in drawing blood from poultry to be used in pullorum testing programs, may license as many trained technicians as he deems necessary to aid the programs.

Secretary of
Agriculture to
license certain
trained poultry
technicians.