

No. 1981-70

AN ACT

SB 797

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 defining "project"; further providing for investment of Authority moneys and further providing for general purposes.

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

Section 1. Clause (j) of section 2, act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945," amended August 1, 1975 (P.L.164, No.85), is amended to read:

Section 2. Definitions.—The following terms whenever used or referred to in this act shall have the following meanings, except in those instances where the context clearly indicates otherwise:

* * *

(j) The term "project" shall mean 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*, or any structure, facility or undertaking which an Authority is authorized to acquire, construct, improve, maintain or operate under the provisions of this act.

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Section 2. Subsection A of section 4 of the act, amended April 10, 1980 (P.L.105, No.41), is 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, 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*, buildings to be devoted wholly or partially for public uses, including public school buildings, and facilities for the conduct of judicial proceedings, and for revenue-producing purposes; transportation,

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

ness district. This limitation shall also not apply to hospital projects to be leased to public hospitals or nonprofit hospital corporations serving the public if each municipality organizing an Authority for such a project shall declare by resolution or ordinance that it is desirable for the health and safety of the people in the area served by such hospital to have such facilities provided by an Authority. The municipality or municipalities organizing such an Authority may, in the resolution or ordinance signifying their intention so to do, or from time to time by subsequent resolution or ordinance, specify the project or projects to be undertaken by the said Authority, and no other projects shall be undertaken by the said Authority than those so specified. If the municipal authorities organizing an Authority fail to specify the project or projects to be undertaken, then the Authority shall be deemed to have all the powers granted by this act.

* * *

Section 3. The act is amended by adding a section to read:

Section 7.1. Investment of Authority Funds.—A. The board shall have the power to:

(a) make investment of Authority sinking funds in the manner provided for local government units by the act of July 12, 1972 (P.L. 781, No. 185), known as the "Local Government Unit Debt Act";

(b) make investment of moneys in the general fund and in special funds of the Authority other than the sinking funds as authorized by this section; and

(c) liquidate any such investment, in whole or in part, by disposing of securities or withdrawing funds on deposit. Any action taken to make or to liquidate any investment shall be made by the officers designated by action of the board.

B. The board shall invest Authority funds consistent with sound business practice.

C. The board shall provide for an investment program subject to restrictions contained in this act and in any other applicable statute and any rules and regulations adopted by the board.

D. Authorized types of investments for Authority funds shall be:

(a) United States Treasury bills.

(b) Short-term obligations of the United States Government or its agencies or instrumentalities.

(c) Deposits in savings accounts or time deposits or share accounts of institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund to the extent that such accounts are so insured, and, for any amounts above the insured maximum, provided that approved collateral as provided by law therefore shall be pledged by the depository.

(d) Obligations of the United States of America or any of its agencies or instrumentalities backed by the full faith and credit of the United States of America, the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the

Commonwealth, or of any political subdivision of the Commonwealth of Pennsylvania or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision.

(e) Shares of an investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933, provided that the only investments of that company are in the authorized investments for Authority funds listed in clauses (a) through (d).

E. In making investments of Authority funds, the board shall have authority:

(a) To permit assets pledged as collateral under subsection D (c), to be pooled in accordance with the act of August 6, 1971 (P.L.281, No.72), entitled "An act standardizing the procedures for pledges of assets to secure deposits of public funds with banking institutions pursuant to other laws; establishing a standard rule for the types, amounts and valuations of assets eligible to be used as collateral for deposits of public funds; permitting assets to be pledged against deposits on a pooled basis; and authorizing the appointment of custodians to act as pledgees of assets."

(b) To combine moneys from more than one fund under Authority control for the purchase of a single investment, provided that lack of the funds combined for the purpose shall be accounted for separately in all respects and that earnings from the investment are separately and individually computed and recorded, and credited to the accounts from which the investment was purchased.

(c) To join with one or more other political subdivisions and municipal authorities in accordance with the act of July 12, 1972 (P.L.762, No.180), referred to as the Intergovernmental Cooperation Law, in the purchase of a single investment, provided that the requirements of clause (b) on separate accounting of individual funds and separate computation, recording and crediting of the earnings therefrom are followed.

Section 4. Section 8 of the act, amended July 16, 1975 (P.L.56, No.34), is amended to read:

Section 8. Moneys of the Authority.—A. All moneys of any Authority, from whatever source derived, shall be paid to the treasurer of the Authority. [Said moneys shall be deposited in the first instance by the treasurer in one or more banks or bank and trust companies in one or more special accounts or under savings contracts in savings associations 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, of the Commonwealth or of the municipality or municipalities creating the Authority, having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer, or be held by a trustee or agent satisfactory to the Authority. All banks, bank and trust companies and savings associations 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.]

B. Every Authority whose fiscal year ends December 31, shall file on or before July 1 an annual report of its fiscal affairs covering the preceding calendar year with the Department of Community Affairs and with the municipality or municipalities creating the Authority on forms prepared and distributed by the Department of Community Affairs; Authorities whose fiscal year does not end on December 31, shall file the report within ninety days after the end of their fiscal year. Every Authority shall have its books, accounts and records audited, annually, by a certified public accountant, and a copy of his audit report shall be filed in the same manner and within the same time period as the aforesaid annual report. A concise financial statement shall be published annually, at least once in a newspaper of general circulation in the municipality where the principal office of the Authority is located. If such publication is not made by the Authority, the municipality or municipalities shall publish such statement at the expense of the Authority. If the Authority fails to make such an audit, then the controller, auditors or accountant designated by the municipality or municipalities, are hereby authorized and empowered from time to time to examine at the expense of the Authority the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments, and any other matters relating to its finances, operation and affairs.

C. The Attorney General of the Commonwealth of Pennsylvania shall have the right to examine the books, accounts and records of any Authority.

Section 5. This act shall take effect immediately.

APPROVED—The 10th day of July, A. D. 1981.

DICK THORNBURGH