

No. 1984-236

AN ACT

SB 705

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," expanding the general powers to include steam and electric power facilities.

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

Section 1. Subsection A of section 4 of the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, amended February 8, 1982 (P.L.20, No.10), 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**,

(a) *The Authority* 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[,];

(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 colleges and universities, State-related universities and community colleges, which are determined by the Authority to be eligible educational institutions **[(upon the condition) provided that such buildings and facilities [for such institutions] shall have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing the Authority[—such] and that the approval does not [to] 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[: **Provided, That an].**

(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, 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:

(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[. This limitation shall not apply to the exercise of the powers granted hereunder]; nor

(ii) 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]; 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 municipality to improve the business district[. This limitation shall also not apply]; nor

(iv) to hospital projects to be leased to public hospitals or nonprofit hospital corporations serving the public or to school building projects and facilities to be leased to private, nonprofit, nonsectarian 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 an Authority.

(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.

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Section 2. This act shall take effect immediately.

APPROVED—The 21st day of December, A. D. 1984.

DICK THORNBURGH