

No. 1990-54

AN ACT

SB 858

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"; defining "local government unit" and "provide financing for insurance reserves"; and providing for financing of insurance reserves.

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

Section 1. Section 2(j) of the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, amended October 21, 1988 (P.L.1041, No.117), is amended and the section is amended by adding definitions 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, finance, improve, maintain or operate, *or provide financing for insurance reserves* under the provisions of this act.

* * *

(p) *The term "local government unit" shall have the same meaning as that provided in section 102(c)(10) of the act of July 12, 1972 (P.L.781, No.185), known as the "Local Government Unit Debt Act."*

(q) *The term "provide financing for insurance reserves" shall mean financing, on behalf of one or more local government units or authorities, all or any portion of a reserve or a contribution toward a combined reserve, pool or other arrangement relating to self-insurance which has been established by one or more local government units pursuant to 42 Pa.C.S. § 8564 (relating to liability insurance and self-insurance) up to, but not exceeding, the amount provided in section 107 of the "Local Government Unit Debt Act."*

Section 2. The introductory paragraph, the introductory paragraph of clause (a) and clause (b) of subsection A of section 4 of the act, amended October 21, 1988 (P.L.1041, No.117), 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 acquiring, holding, constructing, financing, improving, maintaining and operating, owning, leasing, either in the capacity of lessor or lessee, projects of the [following] kind and character *described in the following subclauses and for the purpose of providing financing for insurance reserves:*

* * *

(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 [municipality] *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 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.

* * *

Section 3. Subsection B of section 4 of the act is amended by adding a clause to read:

Section 4. Purposes and Powers; General.—* * *

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:

* * *

(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.

* * *

Section 4. Subsections B and C of section 5 of the act, amended October 21, 1988 (P.L.1041, No.117), are amended to read:

Section 5. Purposes and Powers; Bonds.—* * *

B. Any resolution or resolutions authorizing any bonds may contain provisions which shall be part of the contract with the holders thereof, as to (a) pledging the full faith and credit of the Authority (but not of the Commonwealth of Pennsylvania or any political subdivision thereof) for such obligations, or restricting the same to all or any of the revenues of the Authority from all or any projects or properties, (b) the construction, financing, improvement, operation, extension, enlargement, maintenance and repair of the project, *and providing financing for insurance reserves* and the duties of the Authority with reference thereto, (c) the terms and provisions of the bonds, (d) limitations on the purposes to which the proceeds of the bonds then or thereafter to be issued, or of any loan or grant by the United States may be applied, (e) the rate of tolls and other charges for use of the facilities of or for the services rendered by the Authority, (f) the setting aside of

reserves or sinking funds and the regulation and disposition thereof, (g) limitations on the issuance of additional bonds, (h) the terms and provisions of any deed of trust or indenture securing the bonds, or under which the same may be issued, and (i) any other or additional agreements with the holders of the bonds.

C. Any Authority may enter into any deeds of trust, indentures or other agreements, with any bank or trust company, or other 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 all or any of the revenues or receipts of the Authority thereunder. Such 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) provisions as to (1) the construction, financing, improvement, operation, maintenance and repair of any project, *and providing financing for insurance reserves* 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 trustee and the holders of the bonds, (which may include restrictions upon the individual right of action of such bondholders) and (4) the terms and provisions of the bonds or the resolutions authorizing the issuance of the same.

Said bonds shall have all the qualities of negotiable instruments under the law merchant and the negotiable instruments law of the Commonwealth of Pennsylvania.

Section 5. This act shall take effect immediately.

APPROVED—The 22nd day of June, A. D. 1990.

ROBERT P. CASEY