

LAWS
OF THE
COMMONWEALTH OF PENNSYLVANIA

No. 321
AN ACT

Providing for the creation, incorporation, organization, and government of county public utility administrations in counties of the second class; providing for referendums to ascertain the will of the electors; authorizing such administrations to incur bonded indebtedness for the purpose of the construction of works, the acquisition of property, and the operation of public utilities, to contract for the payment therefor, or to have the price fixed by the Public Utility Commission; conferring the power of eminent domain; providing for the powers, duties, functions, and immunities of such administrations; imposing certain duties and functions in connection with such administrations upon certain county officers; conferring power to enter into agreements with the United States and its instrumentalities, political subdivisions, and municipalities of the Commonwealth, and others; providing for a system of civil service and collective bargaining; and providing penalties; and for other purposes.

Section 1. Be it enacted, &c., That in any county of the second class in this Commonwealth a county public utility administration (hereinafter in this act called the "Administration") may be created as herein provided, and, when so created, shall exercise an essential governmental function for the public purposes herein set forth, and in accordance with the powers herein granted. "Public Utility" or "Utility," as used in this act, means any or all of the property, facilities, franchises, rights, and any other thing, material or abstract, of value used and useful within this Commonwealth for the transportation or conveyance by any means of passengers for hire as a common carrier, or the production, transmission, distribution or furnishing of power, light, heat or water, or the disposition of garbage, sewage or refuse matter, either directly or indirectly, to or for the public.

County public utility administration.

Section 2. The procedure for organizing and creating an administration, under the provisions of this act, shall be as follows:

(a) A resolution shall first be passed by the county commissioners of the county in which it is desired to create the administration declaring that, in their opinion, public interest or necessity demands the creation and maintenance of an administration to be known as "The County Public Utility Administration." Said resolution may state the kind of utility proposed to be first acquired, but failure to acquire such utility shall not affect the validity of the administration.

(b) In lieu of said resolution, a petition may be filed with the county commissioners of said county signed by not less than two thousand (2,000) qualified electors of said county, who have been resident therein for a period of two (2) years immediately prior thereto. Said petition shall declare that, in the opinion of the petitioners, public interest or necessity demands the creation and maintenance of an administration. Such petition shall be executed in ink or indelible pencil, and each elector signing the same shall give his or her occupation, place of residence, and date of signing. No signature shall be valid unless affixed thereto within thirty (30) days of the filing thereof. Any number of such petitions may be circulated among the electors contemporaneously. All separate original petitions when filed shall be treated together as one original petition. Each separate petition so filed shall be verified by the affidavit of the person who circulated it, certifying that each name signed thereto is the true signature of the person whose name it purports to be.

(c) Upon the passage of the resolution aforementioned or the filing of a petition as aforesaid, the county commissioners shall call an election for the purpose of determining whether the proposed administration shall be created and established. Said election shall be held not less than sixty (60) days nor more than six (6) months after the passage of the resolution or* the filing of the petition. The question shall only be submitted at a general or municipal election, unless the resolution designates or the petition requests the holding of a special election on another day therein specified: Provided, however, That a special election shall not be designated to be held within the thirty (30) days period immediately preceding or following the day fixed for any primary, general or municipal election. Any request made for a special election in violation of the provisions hereof shall be disregarded, and the petition shall be filed with the same force and effect as if no request had been made for the holding of a special election. If definite times for a special election are set forth in the petition or petitions so filed, the date contained in the petition first filed, complying with the provisions hereof, shall be the date chosen. A special election may be held on the same day as a primary election. In such case, the special election shall be held and conducted during the same hours during which and by the same election officers by whom the primary is held and conducted, and the votes shall be cast, computed and returned in the manner and under the regulations provided by law for the submission of constitutional amendments or other questions to a vote of the people at a general or municipal election. The ballot for said election shall contain such instruc-

* "or" in the original.

tions as are required by law to be printed thereon, and in addition thereto, shall appear thereon the following:

Shall The County Public Utility Administration be created and established?	Yes	
	No	

(d) In case such question is adopted by the electors of a county of the second class, the county commissioners shall, within thirty (30) days of said adoption, deliver to the Secretary of the Commonwealth articles of incorporation, together with a certificate showing the result of the vote on said question. Said articles of incorporation shall set forth—

- (1) The name of the administration.
- (2) A statement that an administration is created under this act.
- (3) The name of the incorporating county, together with the names and addresses of its county commissioners and the chief clerk of the board of county commissioners.

Said articles of incorporation shall be executed by the county commissioners and under the county seal. If the Secretary of the Commonwealth finds that the articles of incorporation conform to law, he shall forthwith endorse his approval thereon, and, when all proper fees and charges have been paid, shall file the articles and issue a certificate of incorporation to which shall be attached a copy of the approved articles. The certificate of incorporation shall be conclusive evidence of the fact that such administration has been incorporated, but proceedings may be instituted by the Commonwealth to dissolve any administration which shall have been formed without substantial compliance with the provisions of this act.

Section 3. (a) The administration shall be composed of three members who shall be known as administrators, who shall be designated and appointed by the county commissioners, and each shall continue to hold office until his successor is appointed and qualified. Each administrator at the time of his appointment shall be a citizen of the United States and a resident and qualified elector in the county in which said administration is created and established, for a period of at least two (2) years next preceding his appointment. The administrators shall not engage in any other business, vocation or employment and shall profess a belief in the advisability and wisdom of this act.

Members
of the
commission.

(b) The administrators shall have entire charge of the property, services and affairs of the administration, and they shall determine all questions of policy. Said administrators shall, for the purpose of doing business, constitute a board, but no action of the board shall be binding

unless a majority of the administrators shall vote in favor thereof.

(c) The salary or compensation of the administrators shall be fixed and determined by the county commissioners. The salary or compensation of all employes of the administration shall be fixed and determined by the administrators.

(d) The county commissioners shall by appointment fill any vacancy in the office of administrator. The administrators shall by election fill any vacancy in the office of president, vice-president, secretary or treasurer, and shall appoint a general manager and such other subordinate officers and employes as they may deem necessary, and fix and determine their compensation and duties.

Persons eligible to be appointed as administrator.

Section 4. No person shall be appointed as an administrator, general manager or other officer or employe to engage in the performance of any duties connected, either directly or indirectly, with the conduct of the affairs of the administration, who has any financial interest in any public utility engaged in the business of the transportation or conveyance by any means of passengers for hire as a common carrier, or the production, transmission, distribution or furnishing of power, light, heat or water, or the disposition of garbage, sewage or refuse matter, nor any person having any interest in any business that may be adversely affected by the success of the administration.

Powers and duties of the administration.

Section 5. The administration shall manage, supervise, and regulate every utility owned and operated by the administration, including the fixing and determining of rates, rentals, charges, and classifications, and the making and enforcement of rules, regulations, contracts, practices and schedules for, or in connection with, any service, product or commodity owned or controlled by such administration.

Section 6. Any administration, incorporated as here-in provided, shall have power—

(a) To continue as a body corporate perpetually.

(b) To sue and be sued, complain and defend, in its own name.

(c) To adopt a corporate seal and alter it at pleasure.

(d) To acquire, purchase, establish, construct, lease, own, hold or operate, within or without or partly within or partly without the county, works or parts of works, and property and facilities used and useful for supplying the inhabitants of said county with transportation or conveyance by any means as a common carrier, and the production, transmission, distribution or furnishing of power, light, heat or water, and the disposition of garbage, sewage or refuse matter, and to do all things necessary or convenient to the full exercise of the powers herein granted. Whenever there is a surplus of power,

light, heat or water above that which may be required by the inhabitants within the county, such administration shall have authority to sell or otherwise dispose of such surplus outside of the county to persons, firms, and public or private corporations, or municipalities outside of said county.

(e) To do all things necessary and convenient for the purpose of carrying into effect the powers herein granted without the consent of any department, bureau or commission, and no certificate of public convenience from any commission or other department of the Commonwealth shall be required as a condition precedent to the construction by the administration of any public utility where one engaged in the same service already exists.

(f) To have and exercise the right of eminent domain in the manner provided by law for the condemnation of private property for public use. To take any property necessary or convenient to the exercise of the powers herein granted, whether such property be already devoted to the same use or otherwise. In the proceedings relative to the exercise of such right, the administration shall have all the rights, powers, and privileges of a political subdivision of the Commonwealth or a municipal corporation, and all the rights, powers, and privileges herein conferred.

(g) To use in carrying out the powers herein granted any street or public highway or any lands which are now or may be the property of this Commonwealth, and to have the same rights and privileges appertaining thereto as have been or may be granted to political subdivisions of the Commonwealth or to municipalities or any person, copartnership, association or corporation.

(h) To enter into contracts and agreements with the United States, or any department, corporation or instrumentality thereof, the Commonwealth of Pennsylvania, or any department, corporation or instrumentality thereof, stipulating for the purchase, transmission, distribution or furnishing of electric power generated by a hydroelectric power plant or plants established in the interests of the National Defense, or for agriculture or industrial development, or to improve navigation, or to control destructive flood waters in the rivers.

(i) To borrow money for any or all of the purposes for which it is organized, to issue its promissory notes, bonds or other forms of certificates of indebtedness with interest as evidence thereof, and to secure any of the obligations by mortgage pledge or deed of trust of or on any of its property and income to refund or retire any indebtedness that may exist against or be assumed by the administration, to pledge its rates, rentals, charges, and other revenues, or any part thereof, either presently received or to be received in the future, or both, as security for the repayment with interest of any money

borrowed by it or advanced to it for any of its authorized purposes and as security for the satisfaction of any obligation assumed by it in connection with such loans or advances.

(j) To elect a president, vice-president, secretary, and treasurer, and to adopt suitable by-laws for the management of its affairs.

(k) To have and exercise all of the powers and means necessary or convenient to effect the purpose or purposes for which the administration is organized, and to make rules and regulations for the management of its affairs and in connection with its property and affairs and property within its control. To exercise any and all powers which might be exercised by a natural person or private corporation in connection with similar property and affairs.

(l) To enter upon any land or facilities of any public utility or any property within or without the county, or examine the records, papers, books, and ledgers of any public utility for the purpose of making such surveys, maps or other examinations thereof as the administration may deem necessary or convenient for the purposes set forth herein.

(m) To enter into contracts and agreements with counties and with cities, boroughs, and townships, within or without the county, for the sale and furnishing of any service, product or commodity owned or controlled by such administration.

Section 7. Whenever an administration shall adopt a resolution to acquire by purchase or to lease, erect, establish, construct, hold, and operate, as the case may be, a public utility, the administration shall ascertain the fair and reasonable value of such public utility that it desires to purchase, and shall submit the same to the owners of such utility. If the administration and the owners of such utility are unable to agree upon the price to be paid therefor, the administration shall transmit to The Public Utility Commission of the Commonwealth a transcript of its entire proceedings concerning such purchase. Such proceeding so certified shall be docketed as a cause pending before The Public Utility Commission, and The Public Utility Commission shall issue to such utility a summons returnable within thirty (30) days from the date of such summons. Upon the return of such notice showing service of thirty (30) days and The Public Utility Commission, or a commissioner thereof, being satisfied with the regularity of the proceedings and the service, The Public Utility Commission shall appoint one of its members who shall view and make a fair appraisalment of the properties sought to be purchased and report the same to The Public Utility Commission. The Public Utility Commission shall then proceed to fix and determine the fair

and reasonable value of such utility and enter a decree to that effect, and, upon payment of such compensation by the administration to the owner or owners of such utility, title to the utility shall vest in the administration, and all claims for compensation shall be deemed paid and satisfied. Upon appeal of any interested party to the Superior or Supreme Court, the court shall accept the findings of fact and appraisal made by The Public Utility Commission as conclusive, and shall confine the appeal only to an examination into whether the proceedings were in conformity with this act.

If any person or persons shall claim adversely to each other any estate or interest in the utility to be purchased, the administration shall pay into the court of common pleas of the county where the utility is situated the whole of the appraisal money. The court shall by rule, process or motion require all said claimants to appear, and may by an issue framed between them to be tried by a jury or by reference to a master determine the estates and interests of each claimant in said appraisal money. Upon the final determination of such proceedings, the court shall direct said appraisal money to be paid to the person or persons ascertained to be entitled thereto. After verdict and final judgment, any party may have an appeal to the Superior Court or Supreme Court as in other cases.

Section 8. The administration shall classify all the positions of employment in or under the administration with reference to the examinations hereinafter provided for, except such positions as general manager and heads of departments. The positions so classified shall constitute the classified civil service of the administration, and no appointment to any such position shall be made except upon merit and according to the rules hereinafter mentioned. The administration shall make rules to carry out the purposes of this section and for examinations, appointments, promotions, and removals and may, from time to time, make changes in existing rules.

The examinations shall be practical in character and shall relate to those matters only which will fairly test the relative capacity of the person examined to discharge the duties of the position to which he or she seeks to be appointed, and shall include appropriate tests of manual or professional skill.

No person shall be appointed to any position in the administration who holds office in any political party, and election to such office shall be sufficient ground for his immediate removal.

Section 9. Any person elected by the people or appointed according to law to any public office in this Commonwealth, or any person having any financial interest in any public utility engaged in the business of the transportation or conveyance by any means of passen-

gers for hire as a common carrier, or the production, transmission, distribution or furnishing of power, light, heat or water, or disposition of garbage, sewage or refuse matter, who shall in any manner influence or attempt to influence the administration in the making of any appointment, contract or agreement, or in the purchase of supplies, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding five hundred dollars (\$500.00), or to undergo imprisonment not exceeding one (1) year, or both, in the discretion of the court, and in the case of a public official, either elected or appointed, conviction under this section shall work a forfeiture of his office.

Policy of the
administration.

Section 10. In the conduct of the policies of employment of the administration, the letter and spirit of the National Labor Relations Act, enacted by the Congress of the United States, shall be observed, and it shall be the duty of the administration to bargain collectively with the duly authorized representatives of the employes thereof with reference to wages, hours, and conditions of employment, and to enter into contracts or agreements with said representatives with reference to matters of employment. The administration shall not organize or cause to be organized a company union, but shall at all times recognize, for purposes of collective bargaining, such existing bona fide labor unions covering the trade or industry relating to such administration. No person shall be employed in any capacity by the administration who is not a member of such labor union so recognized.

Section 11. All contracts shall be let and purchases made by the administration in the manner now provided by law relating to contracts and purchases by county commissioners in counties of the second class.

Bonds.

Section 12. All bonds issued by the administration shall be legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, and trust companies, and for the State Workmen's Insurance funds, and for the sinking funds of counties, cities, boroughs or townships, and whenever any moneys or funds may, by any law now or hereafter enacted, be invested in bonds of counties, cities or school districts in the Commonwealth, such moneys or funds may be invested in the bonds of the said administration, and whenever bonds of counties, cities or school districts may, by any law now or hereafter enacted, be issued as security for performance of any act, or as security for the deposit of public funds of the Commonwealth or of any county, city, municipality or other public corporation or political subdivision in any State or National bank or banks, bonds of said administration may be so used.

Section 13. The bonds and other securities and obligations issued by an administration created and estab-

lished under this act, their transfer and the income therefrom, the property and facilities used and useful in the operation of said administration, shall at all times be free from taxation within the Commonwealth of Pennsylvania.

Section 14. The bonds and other securities and obligations of said administration shall be a lien upon, and payable solely and exclusively from, the assets and revenues of said administration, and shall not be nor be deemed to be an indebtedness of the Commonwealth of Pennsylvania, or of any county, city, borough, township, or other political subdivision or municipality within the Commonwealth. The administration shall have no power to pledge the credit or to create any debt of the Commonwealth, or of any county, city, borough, township, or other political subdivision or municipality within the Commonwealth.

Section 15. All matters and things necessary for the proper conduct of the affairs of said administration which are not provided for in this act shall be provided for by the board of administrators of the administration.

Section 16. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included therein.

Constitutional provision.

Section 17. All acts or parts of acts inconsistent with this act are hereby repealed.

Repeals.

APPROVED—The 4th day of June, A. D. 1937.

GEORGE H. EARLE

No. 322

AN ACT

To amend section one, section three as amended, sections seven and thirteen, and section seventeen as amended, and to repeal section six of the act, approved the twenty-fifth day of July, one thousand nine hundred thirteen (Pamphlet Laws, one thousand twenty-four), entitled "An act to protect the public health and welfare, by regulating the employment of females in certain establishments, with respect to their hours of labor and the conditions of their employment; by establishing certain sanitary regulations in the establishments in which they work; by requiring certain abstracts and notices to be posted; by providing for the enforcement of this act by the Commissioner of Labor and Industry and others; by prescribing penalties for violations thereof; by defining the procedure in prosecutions; and by repealing all acts and parts of acts inconsistent with the provisions thereof," as amended, by excepting from the provisions of the act certain occupations and professions; further regulating the hours of labor; eliminating existing provisions