

of any assets in such common trust fund but shall be deemed to have the proportionate undivided interest in the common trust fund. The ownership of the individual assets comprising any such common trust fund shall be solely in the city as fiduciary.

Limitation of authority of city in certain cases.

Section 8. Nothing contained in this act shall be construed to authorize the city to invest moneys of a charitable use or trust in any such common trust fund contrary to any specific limitation or restriction contained in the will, deed or other instrument by which any real and personal property are given, granted, conveyed, bequeathed, devised to, or otherwise vested in, the city upon charitable use or trust, nor to limit or restrict the authority conferred upon the city with respect to investments by any such instrument.

Mistakes made in good faith.

Section 9. No mistakes made in good faith and in the exercise of due care and prudence in connection with the administration of any such common trust fund shall be held to exceed any power granted to, or violate any duty imposed upon, the city, if promptly after the discovery of the mistake the city takes whatever action that may be practicable under the circumstances to remedy the mistake.

Act effective immediately.

Section 10. The provisions of this act shall become effective immediately upon final enactment.

APPROVED—The 19th day of July, A. D. 1951.

JOHN S. FINE

No. 238

AN ACT

To further amend the act, approved the second day of May, one thousand nine hundred forty-five (Pamphlet Laws 382), 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," by empowering Authorities to acquire, by eminent domain, certain capital stock of corporations of this Commonwealth owning projects in the event the Authority already owns ninety percent or more of such stock, and by providing a procedure therefor.

"Municipality Authorities Act of 1945."

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

Section 1. The act, approved the second day of May, one thousand nine hundred forty-five (Pamphlet Laws 382), 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," is hereby amended by adding, immediately following section eleven, a new section to read as follows:

Act of May 2,
1945, P. L. 382,
amended by adding,
following
section 11, a new
section 11.1.

Section 11.1. Acquisition Of Capital Stock.—A. In the event that the Authority shall own ninety percent or more of all the outstanding capital stock entitled to vote upon liquidation and dissolution and not subject by its terms to be called for redemption of any corporation organized and existing under the laws of this Commonwealth and owning a project, the Authority shall have the power to acquire the remainder of such stock by eminent domain as a part of a plan for the liquidation of said corporation.

B. The right of eminent domain in respect of the remainder of such capital stock shall be exercised by the Authority in the following manner: In the event that the Authority has not agreed with an owner of any of said capital stock as to the value thereof, the Authority shall file, with the court of common pleas of the county in which the corporation's principal place of business is located, its bond for the benefit of said owner and of any other persons who may be found entitled to receive damages for the taking of said capital stock, of which said owner shall be obligee, the condition of which bond shall be, that the Authority shall pay or cause to be paid, to the owner of said stock or to such other persons as may be found entitled to receive damages for the taking of said capital stock, such amount as the owner or such other persons shall be entitled to receive for the taking of such stock, after such amount shall have been agreed upon by the parties or assessed in the manner provided by paragraph D of this section. Said bond shall be accompanied by proof that notice of the proposed filing was mailed by registered mail not less than ten days prior thereto to the owner of said stock at his address as shown by the

records of the corporation. Upon approval by the said court of the said bond, the Authority shall be vested with all the right, title and interest in and to said stock, and said owner and all other persons shall thereupon cease to have any rights or interest with regard to said stock other than the right to compensation for the taking thereof under the procedure set forth in paragraph D of this section. The word "owner," as used in this paragraph B, shall mean the person or persons in whose name or names the stock is registered on the books of the corporation.

C. In the event that the Authority shall have contracted in writing to purchase ninety percent or more of such outstanding capital stock, it shall have the right to obtain the approval of the said court to the bond required by the provisions of paragraph B of this section; but the said approval shall not be effective for the purposes of this section unless and until there is also filed with the prothonotary of the said court, within ten days after said approval, a sworn statement by the chairman of the board of the Authority, duly attested by the secretary thereof, that the Authority has become the owner of ninety percent or more of such capital stock.

D. If the Authority and the former owner of said stock fail to agree as to the amount which the said former owner is entitled to receive as compensation for the taking of said stock, within thirty days after the approval of the bond by the said court under the provisions of paragraph B of this section or the filing of the required statement under the provisions of paragraph C of this section, either party may apply, by petition to the said court, for the appointment by the court of three disinterested persons to appraise the fair value of said stock immediately prior to the acquisition thereof by the Authority without regard to any depreciation or appreciation thereof in consequence of such acquisition. The appraisers or a majority thereof shall file their award, which shall include the costs of such appraisal, with the court, and shall mail a copy thereof to each party, with the date of filing stated thereon. When said award is filed with the court, the prothonotary thereof shall mark the same "confirmed nisi," and in case no exceptions are filed thereto within ten days, he shall enter a decree (as of course) that said award is confirmed absolutely. If exceptions to the award are filed by either party before the award is so confirmed, the court shall hear the same and shall have power to confirm, modify, change or otherwise correct the award or refer the same back to the same or new appraisers with like power as to their

award. Within thirty days after the final confirmation, modification, changing or correcting of said award, either party may appeal from said decree to the Superior Court or the Supreme Court, as the case may be.

Section 2. The provisions of this act shall become effective immediately upon *final enactment.

Act effective immediately.

APPROVED—The 19th day of July, A. D. 1951.

JOHN S. FINE

No. 239

AN ACT

To add clause (m) to section 108 of the act, approved the twenty-first day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 566), entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issues; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appropriation; and prescribing penalties," by including tuberculosis within the meaning of the term occupational disease in the case of nurses in hospitals and sanitarium.

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

Section 1. Section 108 of the act, approved the twenty-first day of June, one thousand nine hundred thirty-nine (Pamphlet Laws 566), entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employe arising out of and in the course of employment; establishing an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issue; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appro-

The Pennsylvania Occupational Disease Act.

Section 108, act of June 21, 1939, P. L. 566, amended by adding, at end thereof, a new clause (m).

* "final" omitted in original.