

B. The project established under this act may be leased by the Authority to the incorporating county or city and the said county or city is hereby empowered to enter into a lease for such purpose.

Section 18. Constitutional Construction.

The provisions of this act shall be severable, and if any of the provisions thereof shall be held to be unconstitutional, such decision shall not affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included therein.

Act effective immediately.

Section 19. The provisions of this act shall become effective immediately upon its final enactment.

APPROVED—The 29th day of July, A. D. 1953.

JOHN S. FINE

No. 271

AN ACT

Providing for the acquisition, construction, improvement, operation and maintenance of tunnels for certain highway purposes within the Commonwealth; authorizing the issuance of tunnel revenue bonds, free from taxation and payable solely from tunnel earnings, to pay the cost of such tunnels and improvements thereof; providing for the collection of tunnel tolls for the payment of such bonds and for the cost of maintenance, operation and repair of the tunnels; constituting such bonds legal investments in certain instances; prescribing conditions upon which such tunnels shall become free tunnels; conferring powers and imposing duties on the Pennsylvania Tunnel Commission created hereby; providing that no debt of the Commonwealth shall be incurred in the exercise of any of the powers granted by this act; and providing for condemnation.

"The Intra-State Tunnel Revenue Bond Act."

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

Section 1. Short Title.—This act shall be known and may be cited as "The Intra-State Tunnel Revenue Bond Act."

Section 2. Definitions.—As used in this act, the following words and terms shall have the following meanings:

(a) The word "tunnel" shall mean any tunnel, for whatever purpose constructed, that is usable, with or without re-boring, as a vehicular tunnel to connect or form a portion of the connection between State highway routes or lessen the distance between different points on or portions of State highway routes, and shall include all property rights, easements and franchises relating thereto, including approaches and necessary connections with State highways.

(b) The word "improvements" shall mean such repairs, replacements, additions and betterments of and to a tunnel, acquired by purchase or by condemnation, as are deemed necessary to place it in a safe and efficient condition for the use of the public, if such repairs, replacements, additions and betterments are ordered prior to the sale of any bonds for the acquisition of such tunnel.

(c) The term "cost of tunnel," as applied to a tunnel to be acquired by purchase or by condemnation, shall include the purchase price, or the amount of the award, cost of improvements, financing charges, interest during any period of disuse before completion of improvements, cost of traffic estimates and of engineering and legal expenses, plans, specifications and surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the acquisition of the tunnel and the placing of the tunnel in operation.

(d) The term "cost of tunnel," as applied to a tunnel to be constructed, shall embrace the cost of construction, the cost of all land, property rights, easements and franchises acquired which are deemed necessary for such construction, financing charges, interest during construction, cost of traffic *estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and the construction of the tunnel and the placing of the tunnel in operation.

(e) The word "commission" shall mean the Pennsylvania Tunnel Commission.

(f) The word "owner" shall include all individuals, copartnerships, associations or corporations having any title or interest in any property rights, easements or franchises authorized to be acquired by this act.

Section 3. There is hereby created a commission to be known as the "Pennsylvania Tunnel Commission," and by that name the commission may sue and be sued, plead and be impleaded, contract and be contracted with, and have an official seal. The commission is hereby constituted an instrumentality of the Commonwealth, and the exercise by the commission of the powers conferred by this act in the construction, operation and maintenance of tunnels shall be deemed and held to be an essential governmental function of the Common-

"Pennsylvania
Tunnel Com-
mission."

* "estimates" in original.

Membership.	wealth. The commission shall consist of three members, and the Secretary of Highways shall be a member *ex officio. The two remaining members shall be appointed by the Governor, by and with the advice and consent of two-thirds of the members of the Senate, and shall be residents of the Commonwealth of Pennsylvania at the time of their appointment and qualification, and shall also, at such time, have been qualified electors therein
Terms.	for a period of at least one year next preceding their appointment. The appointed members of the commission shall continue in office for terms of four years from the dates of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the Governor at the time of his appointment, and any member of the commission shall be eligible for reappointment. Immediately after such appointments, the members of the commission shall enter upon their duties.
Oath.	Each appointed member of the commission, before entering upon his duties, shall take the oath prescribed by Article VIII of the Constitution of the Commonwealth.
Organization.	The commission shall elect one of the appointed members as chairman of the commission, and shall also elect a secretary and treasurer who may not be a member of the commission. Three members of the commission shall constitute a quorum who, for all purposes, must act unanimously. The commission shall make necessary rules and regulations for its own government, and shall have power and authority to acquire, own, use, hire, lease, operate and dispose of personal property, real property and interests in real property, and to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ engineering, traffic, architectural and construction experts and inspectors and attorneys and such other employes as may be necessary, in its judgment, and fix their compensation: Provided, however, That all contracts and agreements relating to the construction of tunnels shall be approved by the Department of Highways, and the tunnels shall be constructed under the supervision of the Department of Highways. Each appointed member of the commission shall serve without compensation, but each member of the commission shall be reimbursed for necessary expenses incurred in the performance of his duties. All such compensation and salaries and all expenses incurred in the carrying out of the provisions of this act shall be paid solely from funds provided under the authority of this act, and no liability or obligation shall be incurred hereunder beyond the extent to which
Quorum.	
Rules and regulations.	
Power and authority.	
Proviso.	

* "ex officio" in original.

money shall have been provided under the authority of this act.

The commission is hereby authorized to enter into agreements with the Department of Highways of the Commonwealth for traffic surveys, preparation of plans and specifications, supervision of construction and other engineering services and other preliminary expenses necessary in connection therewith, and the obligation or obligations of the commission under the terms of such agreements shall be considered and deemed to be a part of the cost of the tunnel or tunnels to which such agreement relates and shall be reimbursed to the Department of Highways out of the proceeds of tunnel revenue bonds authorized by this act.

Traffic surveys,
plans and speci-
fications, etc.

Section 4. Purchase of Tunnels.—The commission is hereby authorized and empowered to acquire by purchase, whenever it shall deem such purchase expedient, any tunnel or tunnels which are within the Commonwealth, or any such tunnel or tunnels partly constructed, or any franchises, easements, permits or contracts for the construction of any such tunnel or tunnels, upon such terms and at such prices as may be reasonable and can be agreed upon between the commission and the owner thereof, title thereto to be taken in the name of the Commonwealth. The commission shall issue tunnel revenue bonds of the Commonwealth, as hereinafter provided, to pay the cost of such acquisition.

Section 5. Condemnation of Tunnels and Property.—The commission, whenever a reasonable price cannot be agreed upon, is hereby authorized and empowered to acquire by condemnation any tunnel or tunnels or interest or interests therein, and any land, rights, easements, franchises and other property deemed necessary or convenient for the improvement or the efficient operation of any property acquired or constructed under this act, or for the purpose of constructing any tunnel or portion thereof hereunder, or for securing right of way leading to any such tunnel, or for the approaches to any such tunnel, in the manner hereinafter provided. In such event, application shall be made by the commission, acting through the Department of Justice, or by any owner or owners, to the court of common pleas of the county in which such tunnel is or is to be located, or, in the case of a tunnel on the boundary line between two or more counties, then in any of such counties, for the appointment of viewers. Whereupon, said court or any law judge thereof shall appoint three disinterested freeholders to view such tunnel, land, rights, easements or franchises, and estimate the value thereof. None of the freeholders shall be a resident of the county wherein such application shall be made. The court shall fix a

time, not less than twenty nor more than thirty days thereafter, when the viewers shall meet upon the property and view the same. The viewers shall cause at least ten days' personal notice of the time and place of such meeting to be given to the Attorney General and to the owner or owners, if resident within said county. If the owner is a corporation, such notice shall be given to the president, secretary or treasurer thereof, if such officer resides within said county. If neither the owner nor any of the officers reside within the county or cannot be found therein, notice of such first meeting shall be given as the court may direct. The viewers, having been duly sworn or affirmed faithfully and impartially to perform the duties required of them under the provisions of this act, shall, at the time fixed for the first meeting, proceed to ascertain as accurately as may be the value of such tunnel, land, rights, easements or franchises, and to that end may require the attendance of any person whose testimony may be pertinent thereto and production of any such books or papers as the viewers may deem necessary. If any person shall refuse to appear and testify before such viewers or refuse to produce such books and papers when they are required, then the court or any judge thereof shall, on application of the viewers or a quorum thereof, make such order therein as may be necessary. Whenever the viewers shall have ascertained the value of the tunnel, lands, rights, easements or franchises, they shall prepare a full report of their labors. The report shall include a plan showing the location of or the proposed location of the tunnel. Upon the completion of the report, the viewers shall fix a time when they shall meet and exhibit same. Ten days' written notice of the time and place of such meeting shall be given to the chairman of the commission, to the Attorney General, and to the owner or owners of the tunnel. At the time and place mentioned in such notice, the viewers shall meet and publicly exhibit the report and hear all exceptions thereto. After making any changes in such report as they may deem necessary, the same shall be filed in the court. Within thirty days after the filing of the report in the court, the commission, acting through the Department of Justice, or any person interested, may file exceptions thereto. Whereupon, the court may confirm the report absolutely, or modify it, or refer it back to the same or to any viewers with like powers and duties of the former viewers. Within thirty days after final action on the report by the court, the commission, acting through the Department of Justice, or any person interested, may demand a trial by jury. From the action of the court on exceptions or from any judgment after a jury trial, an appeal may be taken

by any party to the Supreme or Superior Court. Each of the viewers shall receive a sum not exceeding thirty dollars for each day actually and necessarily employed in the performance of the duties herein prescribed. Title to any property condemned by the commission shall be taken in the name of the Commonwealth. The Commonwealth shall be under no obligation to accept and pay for any property condemned or any costs incidental to any condemnation proceedings, and shall in no event pay for the same except from the funds provided by this act; and in any condemnation proceedings the court having jurisdiction of the suit, action or proceeding may make such order as may be just to the Commonwealth and to the owners of the property to be condemned, and may require an undertaking or other security to secure such owners against any loss or damage to be sustained by reason of the failure of the Commonwealth to accept and pay for the property, but such undertaking or security shall impose no liability upon the Commonwealth except such as may be paid from the funds provided under the authority of this act.

Section 6. Improvement of Tunnels Acquired.—It shall be the duty of the commission, at or before the time any such tunnel shall be acquired by purchase or by condemnation, to determine what repairs, replacements, additions or betterments will be necessary to place the tunnel in safe and efficient condition for the use of the public, and to cause an estimate of the cost of such improvement to be made. The commission shall order such improvements before the sale of any tunnel revenue bonds hereinafter authorized for the acquisition of such tunnel, and the cost of such improvements shall be paid for out of the proceeds of such bonds.

Section 7. Construction of Tunnels.—The commission is hereby authorized and empowered to construct, whenever it shall deem such construction expedient, any tunnel or tunnels, as herein defined, within the Commonwealth. The cost of such construction shall be paid solely by means of or with the proceeds of tunnel revenue bonds hereinafter authorized. The commission is hereby authorized to purchase within this Commonwealth, solely from funds provided under the authority of this act, such lands, structures, rights of way, franchises, easements and other interests in lands, including lands under water, and riparian rights of any person, copartnership, association, railroad or other corporation, or municipality, or political subdivision, deemed necessary for the construction of any such tunnel, upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof, and to take title thereto in the name of the Commonwealth.

Section 8. Tunnel Revenue Bonds.—The commission is hereby authorized to provide, by resolution, at one time or from time to time, for the issuance of Tunnel Revenue Bonds of the commission for the purpose of paying the cost, as hereinabove defined, of any one or more such tunnels, which resolution shall recite an estimate of each issue of such cost. The principal and interest of such bonds shall be payable solely from the special fund herein provided for such payment. Such bonds shall bear interest at not more than six per centum per annum, payable semi-annually, shall mature at such time or times, not more than thirty years from their date or dates, as may be determined by the commission, and may be made redeemable before maturity, at the option of the commission, at such price and under such terms and conditions as may be fixed by the commission prior to the issuance of the bonds. The principal and interest of such bonds may be made payable in any lawful medium. The commission shall determine the form of the bonds, including the interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds, and the place or places of payment of principal and interest thereof, which may be at any bank or trust company within or without the Commonwealth. Bonds issued by the commission shall be signed by the chairman of the commission under the seal of the commission and attested by the secretary of the commission, and the coupons attached thereto shall bear the facsimile signature of the chairman of the commission. All bonds issued under this act shall contain a statement on their face that the Commonwealth shall not be obligated to pay the same or the interest thereon except from the revenues of such tunnels. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be such officers before the delivery of such bonds, such signatures shall nevertheless be valid and sufficient for all purposes, the same as if they had remained in office until such delivery. All such bonds shall be and shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. Such bonds and the income thereof shall be exempt from all taxation within the Commonwealth. Provisions may be made for the registration of any of the bonds in the name of the owner as to principal alone and also as to both principal and interest. The commission may sell such bonds in such manner and for such price as it may determine to be appropriate for the accomplishment of the purposes of this act, taking into consideration the financial responsibility of the purchaser, the terms and conditions of the purchase, and especially the availability

of the proceeds of the bonds when required for payment of the cost of the tunnels. Such bonds shall be sold for not less than a price which, computed in relation to the absolute maturity of the bonds in accordance with standard tables of bond values, will show a net return of not over six per centum per annum to the purchaser upon the amount paid therefor. The proceeds of such bonds shall be used solely for the payment of the cost of the tunnels, and shall be checked out by the chairman of the commission under such restrictions, if any, as such commission may provide. If the proceeds of such bonds, by error of calculation or otherwise, shall be less than the cost of the tunnel or tunnels, additional bonds may, in like manner, be issued to provide the amount of such deficit, and unless otherwise provided in the trust indenture hereinafter mentioned, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same tunnel or tunnels. If the proceeds of bonds issued for any tunnel or tunnels shall exceed the cost thereof, the surplus shall be paid into the fund hereinafter provided for the payment of principal and interest of said bonds. Prior to the preparation of definitive bonds, the commission may, under like restrictions, issue temporary bonds, with or without coupons, exchangeable for definite bonds upon the issuance of the latter. Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified and required by this act.

Such bonds are hereby made securities in which all State and municipal officers and administrative departments, boards and commissions of the Commonwealth; all banks, bankers, savings banks, trust companies, saving and loan associations, investment companies, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all administrators, executors, guardians, trustees, and other fiduciaries; and all other persons whatsoever, who now or may hereafter be authorized to invest in bonds or other obligations of the Commonwealth, may properly and legally invest any funds, including capital, belonging to them or within their control; and said bonds or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any State or municipal officers or agency of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is now or may hereafter be authorized by law.

Section 9. Lien Upon Bond Proceeds.—All moneys received from any bonds issued pursuant to this act shall be applied solely to the payment of the cost of the tunnels or to the appurtenant sinking fund, and there shall be and hereby is created and granted a lien upon such moneys until so applied in favor of holders of such bonds or the trustee hereinafter provided for in respect of such bonds.

Section 10. Trust Indenture.—In the discretion of the commission, each or any issue of such bonds may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any trust company within or outside of the Commonwealth, but no such trust indenture shall convey or mortgage any tunnel or any part thereof. Such trust indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition, construction, improvement, maintenance, operation, repair and insurance of the tunnels, the custody, safeguarding and application of all moneys. The trust indenture may also provide that the tunnels shall be acquired, constructed and paid for under the supervision and approval of consulting engineers employed or designated by the commission and satisfactory to the original purchasers of the bonds issued therefor, their successors, assigns or nominees, who may be given the right to require that the security given by contractors and by any depository of the proceeds of the bonds or revenues of the tunnels or other moneys pertaining thereto be satisfactory to such purchasers, successors, assigns or nominees. Such indenture may set forth the rights and remedies of the bondholders and trustee, restricting the individual right of action of bondholders as is customary in trust indentures securing bonds and debentures of corporations. Except as in this act otherwise provided, the commission may provide, by resolution or by such trust indenture, for the payment of the proceeds of the sale of the bonds and the revenues of the tunnels to such officer, board or depository, as it may determine, for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of maintenance, operation and repairs of the tunnel or tunnels affected by such indenture.

Section 11. Tunnel Tolls.—The commission shall fix, charge and collect tolls for transit through such tunnels, and such tolls shall be so fixed and adjusted, in respect

of the aggregate of tolls from the tunnel or tunnels for which a single issue of bonds is issued, as to provide a fund sufficient to pay such issue of bonds and the interest thereon, and subject, however, to any applicable law or regulation of the United States of America now in force or hereafter to be enacted or made. The tolls from the tunnel or tunnels for which a single issue of bonds is issued, less costs of toll collection and maintenance if done by the commission, as provided in section twelve, shall be set aside each month in a sinking fund, which is hereby pledged to and charged with the payment of (a) the interest upon such bonds as such interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and interest, and (c) the payment of such bonds. Such sinking fund shall be a fund for all such bonds, without distinction or priority of one over another. Prior to the issuance of the bonds the commission may provide, by resolution or by such trust indenture, for the use of the sinking fund or any part thereof in the purchase of any of the outstanding bonds payable therefrom at the market price thereof, but not exceeding the price, if any, at which the same shall, at the next interest date, be payable or redeemable, and all bonds redeemed or purchased shall forthwith be cancelled and shall not again be issued. The moneys in the sinking fund, less a reserve for payment of not exceeding one year's interest on the bonds, if not used within a reasonable time for the purchase of bonds for cancellation as above provided, shall be applied to the redemption of bonds by lot at the redemption price then applicable.

Section 12. Maintenance of Tunnels.—Whenever any tunnel is purchased or constructed, as herein authorized, to carry State highway vehicular traffic, such tunnel shall be maintained by and at the sole expense of the Department of Highways of the Commonwealth from funds available for the maintenance of State highways: Provided, however, That the Pennsylvania Tunnel Commission shall have the power to expend toll funds in the maintenance of a tunnel acquired or constructed by it to protect the tunnel investment and preserve the security of bondholders if the Department of Highways fails to do so.

Section 13. Cessation of Tolls.—When the particular bonds issued for any tunnel or tunnels and the interest thereon shall have been paid, or a sufficient amount shall have been provided for their payment and shall continue to be held for that purpose, the commission shall cease to charge tolls for the use of such tunnel or tunnels, and thereafter such tunnel or tunnels shall be free and be a part of the State Highway System of Pennsylvania.

Section 14. Action by Trustee and Bondholders.—Any holder of any of such bonds or any of the coupons attached thereto and the trustee, if any, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the bonds or by the trust indenture, may either, by law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights granted hereunder or under such resolution or trust indenture, and may enforce and compel performance of all duties required by this act or by such resolution or trust indenture to be performed by the Commonwealth or by the commission or any officer thereof, including the fixing, charging and collecting of tolls for transit through such tunnels.

Section 15. Contributions.—The commission, in addition to the revenues which may be received from the sale of tunnel revenue bonds and from the collection of tolls and other tunnel revenues derived under the provisions of this act, shall have authority to receive and accept contributions of either money or property or other things of value, to be held, used and applied for the purposes in this act provided, and to receive, accept grants from the United States or any of its agencies for such purposes.

Section 16. Competing Tunnels.—No tunnel for the use of vehicular traffic by the travelling public shall hereafter be constructed and operated by any county, municipal corporation or political subdivision of the Commonwealth, or by any person, copartnership, association or corporation, or no franchise shall hereafter be granted for the operation of a tunnel within five miles of any tunnel so constructed and operated, for the acquisition or construction of which tunnel revenue bonds shall have been authorized under this act, except under a written permit granted by the commission. No such permit shall be granted by the commission until it shall ascertain by an investigation, including a hearing upon such notice and under such rules as the commission may prescribe, that there is an urgent public need for the operation of such tunnel, and that its operation will not affect the revenues of any tunnel of the Commonwealth so as to impair the security of any tunnel revenue bonds issued for the acquisition or construction of such tunnel.

Section 17. General Powers of the Commission.—The above enumeration of powers and duties of the commission shall not be construed as a limitation upon the general powers or duties of said commission. It shall be the duty of the commission, in addition to the powers and duties enumerated in this act, to do and perform any and all things and acts necessary in the construction or acquisition, maintenance and operation of any tunnel to be constructed or acquired under the provisions of this

act, to the end that such tunnel or tunnels may become and be operated free of tolls as early as possible and practicable, subject only to the express limitations of other laws and constitutional provisions applicable thereto. The commission shall exercise the power of condemnation, as set forth in section five of this act, by first filing, in the court of common pleas of the county where the property sought to be condemned is located, a declaration of taking, executed as authorized by resolution of the commission. The date such declaration is filed shall be the date of condemnation.

Section 18. Constitutional Construction.—The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such 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.

Section 19. This act shall become effective immediately upon its final enactment.

Act effective immediately.

APPROVED—The 29th day of July, A. D. 1953.

JOHN S. FINE

No. 272

AN ACT

To amend the act, approved the twelfth day of April, one thousand nine hundred fifty-one (Pamphlet Laws 90), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and malt and brewed beverages and the persons engaged or employed therein; defining the powers and duties of the Pennsylvania Liquor Control Board; providing for the establishment and operation of State liquor stores, for the payment of certain license fees to the respective municipalities and townships, for the abatement of certain nuisances and, in certain cases, for search and seizure without warrant; prescribing penalties and forfeitures; providing for local option, and repealing existing laws," by removing the time limitation of sixty days for filing local option petitions so that the provisions of the Pennsylvania Election Code will apply.

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

"Liquor Code."

Section 1. Section four hundred seventy-two of the act, approved the twelfth day of April, one thousand nine hundred fifty-one (Pamphlet Laws 90), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating

Section 472, act of April 12, 1951, P. L. 90, as amended by act of January 19, 1952, P. L. 2170, further amended.