

the Secretary of Property and Supplies in the name of the Commonwealth of Pennsylvania.

Disposition of
proceeds.

Section 3. All moneys received from the sale of the land herein authorized to be conveyed, shall be deposited in the General Fund.

Act effective
immediately.

Section 4. This act shall take effect immediately.

APPROVED—The 28th day of June, A. D. 1955.

GEORGE M. LEADER

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No. 69

AN ACT

Concurring with the State of New Jersey in revoking in part Paragraph First of the Compact between the State of New Jersey and this Commonwealth, dated April 26, 1783 and ratified by the act approved the 20th day of September, 1783, (2 Smith's Laws 77), entitled "An ACT to ratify and confirm an agreement, made between commissioners appointed by the legislature of the state of New Jersey, and commissioners appointed by the legislature of the state of Pennsylvania, for the purpose of settling the jurisdiction of the river Delaware, and islands within the same," and accepting the terms and conditions of Chapter 443 of the Public Laws of 1953 of the State of New Jersey relating to the construction, the payment of land damages for land taken by eminent domain in New Jersey, costs and expenses, and the payment of taxes to New Jersey municipalities on land acquired in New Jersey for the purpose of constructing, if and when the General Assembly of this Commonwealth shall authorize construction (but within fifty years from the effective date of this act), a storage dam across the Delaware River at or near the area known as Wallpack Bend, and a reservoir above such dam, or to construct a diversion dam across the Delaware River at or near Yardley or Brookville, or both such storage dam or reservoir and such diversion *dam; and authorizing the Governor to apply on behalf of the Commonwealth of Pennsylvania to the Congress of the United States for its consent to the agreement which this act and Chapter 443 of the Public Laws of 1953 of the State of New Jersey will constitute.

Preamble.

"WHEREAS, on December 30, 1953, the Governor of the State of New Jersey approved Chapter 443 of the Public Laws of 1953 of the State of New Jersey, which reads as follows:

"AN ACT concerning the construction and maintenance of certain dams and a storage reservoir across and in the Delaware river and of certain reservoirs in and immediately adjacent to the said river, for the purpose of impounding the waters of said river to provide a supply for domestic, commercial and industrial purposes and compensation flow; providing for the giving of authority to the Commonwealth of Pennsylvania, or,

* "dam" omitted in original.

through it, to any commission or other public body or municipality singly or collectively designated by the Legislature of said Commonwealth to construct and maintain said dams and reservoir and use of water impounded therein for said purposes as a public project, subject to certain terms, conditions and limitations; providing for participation by the State of New Jersey in the said project; granting to the Commonwealth of Pennsylvania, or its authorized agency, the right to acquire property in New Jersey for the purposes of this act; providing for the exercise of the power of eminent domain in connection with said project by the New Jersey State Department of Conservation and Economic Development; granting certain powers to and imposing certain duties upon said department in connection with said project; prescribing the procedure for condemnation; providing for the inoperation of the act unless and until the Legislature of the Commonwealth of Pennsylvania shall enact into law legislation consistent with the terms of this act; and revoking in part (subject to Pennsylvania's concurrence) the compact between New Jersey and Pennsylvania dated April twenty-sixth, one thousand seven hundred and eighty-three, and ratified by the act, entitled 'An act to ratify and confirm an agreement, made between commissioners appointed by the Legislature of the State of Pennsylvania, and commissioners appointed by the Legislature of the State of New Jersey, for the purpose of setting the jurisdiction of the river Delaware, and islands within the same,' passed May twenty-seventh, one thousand seven hundred and eighty-three (P. L. 1783, chap. XX, 2d sitting).

"WHEREAS, Litigation is pending in the United States Supreme Court between the State of New York, the City of New York, the State of New Jersey, and the Commonwealth of Pennsylvania, relative to the use of the Delaware river as a source of public water supply; and

"WHEREAS, The State of New Jersey has claimed the right to divert a volume of water from the Delaware river, based upon its prior diversion through the Delaware and Raritan canal; and

"WHEREAS, The Commonwealth of Pennsylvania has indicated that it will contest this State's diversion of said waters for public water supply without compensation flow releases; and

"WHEREAS, The Commonwealth of Pennsylvania has agreed not to contest this State's right to divert a volume of water equivalent to one hundred million gallons per day out of the Delaware basin for domestic, commercial or industrial purposes, without any requirement for

compensation flow releases, if the State of New Jersey enacts the following mutually advantageous legislation; and

“WHEREAS, It is proposed that the United States Supreme Court will retain jurisdiction over diversions from the Delaware river by either State; and

“WHEREAS, It is desirable that the water resources of the Delaware river be made available to meet the water needs of the State of New Jersey: and

“WHEREAS, The city and State of New York have proposed substantially increased minimum flows of the river to be provided by them upon the completion of their present reservoir construction and the proposed dam and reservoir at Cannonsville, New York, all under the jurisdiction of the United States Supreme Court; therefore,

Enactment of the
State of New
Jersey.

“BE IT ENACTED BY THE SENATE AND GENERAL ASSEMBLY OF THE STATE OF NEW JERSEY:

“1. Subject to the provisions of this act, authority is given to the Commonwealth of Pennsylvania or, through it, to any commission or other public body or municipality singly or collectively designated by the Legislature of said Commonwealth to construct and maintain a storage dam across the Delaware river at or near the area known as Wallpack Bend, but above the confluence with Flatbrook, and including the works and appurtenances of said dam and to maintain the reservoir above said dam for the purpose of impounding the waters of said river to provide a supply of water for domestic, commercial and industrial purposes and compensation flow. Such construction and maintenance shall be deemed to be a public project for the benefit of New Jersey and Pennsylvania. The authority to construct such reservoir hereby conferred shall expire, unless sooner exercised, fifty years after the effective date of this act.

“2. (a) The entire cost of such construction and maintenance shall be borne by the Commonwealth of Pennsylvania or by said commission or public body or municipality, but the State of New Jersey shall be entitled to become a participant in the said project and acquire a proportionate interest therein, not to exceed a thirty per centum (30%) interest, by paying to the Commonwealth of Pennsylvania or to said commission or public body or municipality, immediately upon the completion of the project, such proportionate amount of the cost of the project, and thereafter from time to time the proportionate cost of maintaining the project.

“(b) The county of Sussex in the State of New Jersey shall have the right to divert from the Wallpack

Bend reservoir for the water supply of its municipalities a quantity of water not exceeding 25 million gallons daily and shall pay for the quantities diverted the average production cost thereof calculated by sound accounting principles; *provided*, that if the State of New Jersey shall have participated in the construction of the project, any water diverted by the county of Sussex shall be taken out of New Jersey's proportionate share of the water, and the county of Sussex shall make its payments therefor solely to the State of New Jersey.

"3. Any such reservoir so constructed and maintained shall at all times be made available for fishing and recreation, subject only to reasonable rules, regulations and license fees to be adopted by the State of New Jersey applicable to that section of the reservoir within its territorial limits and by the Commonwealth of Pennsylvania applicable to that section of the reservoir within its territorial limits. Each State shall have the right to erect and maintain publicly owned recreational facilities on its respective side of the reservoir and to provide reasonable access thereto in conformity with such reasonable rules and regulations.

"4. No work upon any such project shall be commenced by the Commonwealth of Pennsylvania or said commission, public body or municipality until copies of the plans and specifications for such work shall first be filed with the New Jersey State Department of Conservation and Economic Development.

"5. In the event that the State of New Jersey shall elect to become a participant in any such project, as in section two of this act provided, the State of New Jersey shall be entitled to withdraw water from the said reservoir or said river or both, for domestic, commercial and industrial purposes and compensation flow, according to the proportion of its interest, but subject to any restrictions that may be imposed by decree of the Supreme Court of the United States. Any restrictions upon such taking which may be imposed upon New Jersey by decree of the Supreme Court of the United States shall not affect the right of the Commonwealth of Pennsylvania to construct the reservoir and diversion dam authorized herein.

"6. Authority is also given to the Commonwealth of Pennsylvania or through it to any commission or other public body or municipality singly or collectively designated by the Legislature of said Commonwealth, to construct and maintain a diversion dam across the Delaware river at or near Yardley or Brookville, Pennsylvania, with necessary appurtenances, for the withdrawal of a water supply from the said river.

“7. In connection with the construction of any such storage dam and reservoir or any such diversion dam, real property in New Jersey may be acquired by purchase or may be taken by the exercise of the power of eminent domain. The power so to take shall be exercised by the New Jersey State Department of Conservation and Economic Development, or its successor, hereinafter called the department, and any such acquisition or taking shall be deemed to be for and shall inure to the benefit of the State of New Jersey and the Commonwealth of Pennsylvania. The cost of any such acquisition and the entire expense of any condemnation proceeding, including the payment of awards, shall be borne by the Commonwealth of Pennsylvania, or by said commission, public body or municipality; *provided however*, that if the State of New Jersey shall be a participant in the construction of the storage dam and reservoir, the State of New Jersey shall bear its proportionate share of such cost and expense. Before such condemnation proceeding shall be instituted, the Commonwealth of Pennsylvania, or its authorized commission, public body or municipality, shall deposit with the Treasurer of the State of New Jersey for the use of the department such reasonable amount in cash or United States Government securities as shall meet with the approval of the Governor of the State of New Jersey as security for the payment of its share of such cost and expense and any surplus remaining after the payment of such cost and expense shall be repaid or returned to the Commonwealth of Pennsylvania.

“8. Upon the exercise of the power of eminent domain by the department, the compensation to be paid thereunder shall be ascertained and paid in the manner provided in chapter one of Title 20 of the Revised Statutes in so far as the provisions thereof are applicable and not inconsistent with the provisions contained in this act. Subject to the rules of civil practice in the Superior Court adopted by the Supreme Court of New Jersey the department may join in separate subdivisions in one complaint the descriptions of any number of tracts or parcels of land or property to be condemned, and the names of any number of owners and other parties who may have an interest therein and all such land or property included in said complaint may be condemned in a single proceeding; *provided, however*, that separate awards be made for each tract or parcel of land or property; *and provided, further*, that each of said tracts or parcels of land or property lies wholly in or has a substantial part of its value lying wholly within the same county.

“9. Upon the filing of such a complaint or at any time thereafter, the department may file with the clerk

of the county in which such property is located and also with the Clerk of the Superior Court a declaration of taking, signed by the department, declaring that possession of one or more of the tracts or parcels of land or property described in the complaint is thereby being taken by and for the use of the Commonwealth of Pennsylvania and State of New Jersey. The said declaration of taking shall be sufficient if it sets forth (1) a description of each tract or parcel of land or property to be taken sufficient for the identification thereof and to which there may or may not be attached a plan or map thereof; (2) a statement of the estate or interest in the said land or property being taken; (3) a statement of the sum of money estimated by the department by resolution to be just compensation for the taking of the estate or interest in each tract or parcel of land or property described in said declaration; and (4) that, in compliance with the provisions of this act, the department has established and is maintaining a trust fund as hereinafter provided.

“10. Upon the filing of the said declaration, the department shall deposit with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration. In addition to the said deposits with the Clerk of the Superior Court the department at all times shall maintain a special trust fund on deposit with a bank or trust company doing business in this State in an amount at least equal to the aggregate amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the persons entitled thereto or into court. Said trust fund shall consist of cash or securities readily convertible into cash constituting legal investments for trust funds under the laws of this State. Said trust fund shall be held solely to secure and may be applied to the payment of just compensation for the land or other property described in such declaration of taking. The department shall be entitled to withdraw from said trust fund from time to time so much as may then be in excess of the aggregate of the amount deposited with the Clerk of the Superior Court as estimated compensation for all property described in declarations of taking with respect to which the compensation has not been finally determined and paid to the person entitled thereto or into court.

“11. Six months after the filing of the said declaration as aforesaid and depositing with the Clerk of the Superior Court the amount of the estimated compensation stated in said declaration, the Commonwealth of Pennsylvania and State of New Jersey, without other

process or proceedings, shall be entitled to the exclusive possession and use of each tract of land or property described in said declaration and may forthwith enter into and take possession of said land or property, it being the intent of this provision that the proceeding for compensation or any other proceedings relating to the taking of said land or interest therein or other property shall not delay the taking of possession thereof and the use thereof by the Commonwealth of Pennsylvania and the State of New Jersey for the purpose or purposes for which the department is authorized by this act to acquire or condemn such land or other property or interest therein.

“12. The department shall cause notice of the filing of said declaration and the making of said deposit to be served upon each party in interest named in the complaint residing in this State, either personally or by leaving a copy thereof at his residence, if known, and upon each party in interest residing out of the State, by mailing a copy thereof to him at his residence, if known. In the event that the residence of any such party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made within ten days after filing such declaration. Upon the application of any party in interest and after notice to other parties in interest, including the department, any judge of the Superior Court assigned to sit for said county may order that the money deposited with the Clerk of the Superior Court or any part thereof be paid forthwith to the person or persons entitled thereto for or on account of the just compensation to be awarded in said proceeding; *provided*, that each person shall have filed with the Clerk of the Superior Court a consent in writing that, in the event the award in the condemnation proceeding shall be less than the amount deposited, the court, after notice as herein provided and hearing, may determine his liability, if any, for the return of such difference or any part thereof and enter judgment therefor. If the amount of the award as finally determined shall exceed the amount so deposited, the person or persons to whom the award is payable shall be entitled to recover from the department the difference between the amount of the deposit and the amount of the award, with interest at the rate of six per centum (6%) per annum thereon from the date of making the deposit. If the amount of the award shall be less than the amount so deposited, the Clerk of the Superior Court shall return the difference between the amount of the award and the deposit to the department unless the amount of the deposit or any part thereof shall have theretofore been

distributed in which event the court, on petition of the department and notice to all persons interested in the award and affording them an opportunity to be heard, shall enter judgment in favor of the department for such difference against the party or parties liable for the return thereof. The department shall cause notice of the date fixed for such hearing to be served upon each party thereto residing in this State either personally or by leaving a copy thereof at his residence, if known, and upon each party residing out of the State by mailing a copy to him at his residence, if known. In the event that the residence of any party or the name of such party is unknown, such notice shall be published at least once in a newspaper published or circulating in the county or counties in which the land is located. Such service, mailing or publication shall be made at least ten days before the date fixed for such hearing.

“13. Whenever under chapter one of Title 20 of the Revised Statutes the amount of the award may be paid into the court, payment may be made into the Superior Court and may be distributed according to law. The department shall not abandon any condemnation proceeding subsequent to the date upon which it has taken possession of the land or property as herein provided.

“14. Whenever real property in New Jersey is acquired or taken in connection with said project, the municipalities wherein such real property is located shall be compensated for the loss of tax revenue by reason of such real property being devoted to a public use, by the payment to the said municipalities by the Commonwealth of Pennsylvania, or by said commission, public body or municipality, or proportionately by said Commonwealth or said commission, public body or municipality and by the State of New Jersey, should the State of New Jersey become a participant in the project, annually of an amount equal to the average annual taxes assessed against the real property during the five-year period preceding such acquisition or taking.

“15. In the event that this act becomes operative as herein provided, the New Jersey State Department of Conservation and Economic Development shall be charged with the duty of administering it and shall have the power to do all things necessary thereto.

“16. The procedure for condemnation of lands shall be to acquire in the name of the Commonwealth of Pennsylvania, or its authorized commission, public body, or municipality, singly or collectively, in accordance with the provisions of law, in so far as such provisions may be applicable, such public lands, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple abso-

lute in, easements upon, or the benefit of restrictions upon, abutting property, to preserve and protect said dam or diversion projects.

“17. This act shall not be construed as a consent by the State of New Jersey to the diversion by the Commonwealth of Pennsylvania of any specific volume of water from such reservoirs, dam or diversion dams. Any diversion by the Commonwealth of Pennsylvania shall be subject to restrictions or conditions that may be imposed by decree of the Supreme Court of the United States or restrictions or conditions arrived at by compact between the Commonwealth of Pennsylvania and the State of New Jersey.

“18. Subject to the concurrence of the Commonwealth of Pennsylvania, but only if this act becomes effective in accordance with the following section, Paragraph First of the compact between the State of New Jersey and the Commonwealth of Pennsylvania, dated the 26th day of April 1783, and ratified by the Act of May 27, 1783, (P. L. 1783, Chap. XX, 2d sitting), is hereby revoked in so far as it would prevent the Commonwealth of Pennsylvania or any commission or other public body or municipality, singly or collectively designated by the Legislature of said Commonwealth to construct and maintain the dams and reservoir specified in this Act.

“19. This act shall become effective when the Commonwealth of Pennsylvania shall, prior to July first, one thousand nine hundred and fifty-five, by statute, accept the terms and conditions of this act relating to the construction, the payment of land damages, costs and expenses, and the payment of taxes to municipalities on land acquired for the aforesaid purposes, and shall concur in the revocation of the compact of April 26, 1783, to the extent provided in the preceding section.”

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

Section 1. The Commonwealth of Pennsylvania hereby concurs with the State of New Jersey in revoking Paragraph First of the Compact between the State of New Jersey and the Commonwealth of Pennsylvania dated the 26th day of April, 1783 and ratified by the New Jersey Act of May 27, 1783 (P. L. 1783, Chapter XX, Second Sitting) and by the Pennsylvania Act of September 20, 1783 (2 Smith's Laws 77) entitled “An ACT to ratify and confirm an agreement, made between commissioners appointed by the legislature of the state of New Jersey, and commissioners appointed by the legislature of the state of Pennsylvania, for the purpose of settling the jurisdiction of the river Delaware, and

Concurring
enactment of the
Commonwealth
of Pennsylvania
with the State of
New Jersey.

islands within the same," in so far as it would prevent the Commonwealth of Pennsylvania or any commission or other public body or municipality, singly or collectively designated by the General Assembly of this Commonwealth, from constructing and maintaining the dams and reservoirs specified in Chapter 443, Public Laws of 1953 of the State of New Jersey, which is hereinbefore set forth in full.

Section 2. The Commonwealth of Pennsylvania hereby accepts the terms and conditions of Chapter 443, Public Laws of 1953 of the State of New Jersey hereinbefore set forth, relating to the construction of the dams and reservoir specified in that act, the payment of land damages, costs and expenses, and the payment of taxes to municipalities of the State of New Jersey on land acquired in New Jersey for the purpose set forth in that act.

Acceptance by the Commonwealth of Pennsylvania of terms and conditions of the State of New Jersey.

Section 3. Inasmuch as this act and Chapter 443, Public Laws of 1953 of the State of New Jersey, constitute an agreement between this Commonwealth and the State of New Jersey, the Governor is hereby authorized to apply, on behalf of the Commonwealth of Pennsylvania, to the Congress of the United States for its consent and approval of such agreement.

Governor of Pennsylvania authorized to apply to Congress of the United States for its consent and approval.

Section 4. This act shall become effective immediately upon final enactment.

Act effective immediately.

APPROVED—The 30th day of June, A. D. 1955.

GEORGE M. LEADER

No. 70

AN ACT

To further amend the act approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 905), entitled "An act for the protection of the public safety; regulating the use of highways, and the operation of vehicles, tractors, street cars, trackless trolley omnibuses, bicycles, pedestrians, and the riding of animals upon the highways of this Commonwealth; providing for the titling, including liens, encumbrances, and legal claims; registration of certain vehicles and licensing the operators thereof, upon payment of prescribed fees; prescribing and limiting the powers of local authorities to deal with the subject matter of this act; conferring powers and imposing duties upon the Department of Revenue, the Department of Highways, peace officers, mayors, burgesses, magistrates, aldermen, justices of the peace, the courts and the clerks thereof, owners of vehicles, and garage keepers; providing that records are admissible as evidence; imposing upon owners, counties, cities, boroughs, incorporated towns, townships, within