

No. 446

A SUPPLEMENT

To the act of May 2, 1945 (P. L. 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," granting certain powers to Authorities organized by a county or counties and engaged solely in the construction or acquisition and operation of water works, water supply works or water distribution systems with respect to the life of such Authorities, the issuance of bonds, the power of eminent domain, the laying of mains, the relocation and vacation of roads, the abatement of certain nuisances, the supplying of water to the public, and conferring additional powers on the Secretary of Highways, municipalities, the courts of quarter sessions, and courts of common pleas, with respect to such Authorities.

Supplement to
act of May 2,
1945, P. L. 382
—County Water
Supply Au-
thority.
Definitions.

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

Section 1. As used in this act:

(1) "Water supply business" means the acquiring, holding, constructing, improving, maintaining and operating, owning, leasing either in the capacity of lessor or lessee, of waterworks, water supply works or water distribution systems.

(2) "County Water Supply Authority" means an Authority which becomes such under the procedures set forth in section 2 of this act.

(3) All other terms defined in the act to which this act is a supplement shall have the meanings therein set forth.

Procedure to
qualify.

Section 2*. (A) Any Authority, heretofore or hereafter organized by any county or counties, which is engaged solely in the water supply business, may, at any time, adopt a resolution reciting that it is engaged solely in the water supply business and desires to become a County Water Supply Authority. Upon the filing with and the approval by the Secretary of the Commonwealth of a copy of the resolution certified by the secretary or

* "a" in original.

an assistant secretary of the Authority under its seal, the Authority shall constitute a County Water Supply Authority for all the purposes of this act.

* (B) Whenever the municipal authorities of any county or counties hereafter desire to organize an Authority for the sole purpose of the water supply business, the municipal authorities may set forth in the articles of incorporation of the Authority, in addition to the other matters required to be set forth therein by section 3 ** (B) of the act to which this act is a supplement, that the Authority is a County Water Supply Authority. Upon the issuance by the Secretary of the Commonwealth of the certificate of incorporation of the Authority, it shall be constituted a County Water Supply Authority for all the purposes of this act.

Certificate of incorporation to issue.

Section 3. A County Water Supply Authority shall have all the rights, powers, privileges and duties conferred or imposed by the provisions of the act to which this act is a supplement, except to the extent that the provisions are inconsistent with the provisions of this act.

General powers.

Section 4. A County Water Supply Authority shall not engage in any activity except the water supply business. All waterworks, water supply works and water distribution systems, heretofore or hereafter acquired, held, constructed, improved, maintained and operated, owned or leased either in the capacity of lessor or lessee, by a County Water Supply Authority, shall constitute a single project for all the purposes of this act and the act to which this act is a supplement.

Restriction on activity.

Section 5. A County Water Supply Authority shall have existence for a term of seventy-five years from the time that it is so constituted under the provisions of section 2 of this act, and for such further period or periods as may be provided in articles of amendment.

Term of existence.

Section 6. The bonds of a County Water Supply Authority shall mature at such time or times not exceeding sixty-five years from their respective dates as shall be authorized by resolution of the board, except that no refunding bonds shall have a maturity date later than the life of the County Water Supply Authority.

Bonds.

Section 7. A County Water Supply Authority may acquire by purchase or eminent domain proceedings either the fee or such right, title, interest or easement in such lands, subsurface rights, air rights, mining rights, mineral rights, drilling rights and rights of way, water and water rights, either within or without the county or counties which organized the Authority as the

Acquisition of property.

* "b" in original.

** "b" in original.

Authority deems necessary in its water supply business, or for the protection of the purity, potability or commercial value of its water supply. Water and water rights shall not be acquired unless approval is obtained from the Water and Power Resources Board as provided by law. No property owned by the United States or by the Commonwealth of Pennsylvania shall be taken under the right of eminent domain, nor shall any property of any municipality or any body politic and corporate organized as an "Authority" under any law of the Commonwealth or any agency of any of them, nor any property of a public service company property used for burial purposes or places of public worship be taken under the power of eminent domain, except upon a determination of the court of common pleas of the county in which the property or place is located that the taking is necessary in storing water in connection with its water supply business. Property used for cemetery or burial purposes shall not be taken under the power of eminent domain unless the court shall establish, after public hearing had after public notice as ordered by the court, reasonable terms and conditions for protection of public health and sanitation, for the maintenance of records from headstones and for proper removal and reinterment of bodies buried in the burial grounds, all at the expense of the Authority.

Powers in construction.

Section 8. A County Water Supply Authority may construct, install, lay, remove, relay, maintain and operate, water transmission and distribution pipe lines, tunnels and related or attached facilities through, under or across streets, roads, highways and public places of this Commonwealth, or of any of its political subdivisions, either within or without the county or counties, which organized the Authority, subject to such reasonable regulations for the protection of the traveling public as the Commonwealth or political subdivision involved may prescribe.

Power to substitute routes for travelling public subject to court approval.

Section 9. A County Water Supply Authority which shall find it necessary in storing water in connection with its water supply business, to occupy or flow with water a portion of any street, highway or public road of any township, borough or county in the Commonwealth, shall relocate, realign or provide a substitute route for any such street, highway or public road at its own expense. The location and quality of the proposed substitute road as set forth in plans and specifications

submitted by the Authority, in conformity with *minimum standards and specifications promulgated by the Department of Highways, shall be approved by the court of quarter sessions of the county in which the existing road is located, after public hearing had, after notice pursuant to order of the court, and prior to the occupation or flooding of the existing road. The Authority shall be required, by order of the court, to provide or pay only the cost of original construction of a substitute road equivalent in quality and character to the prior existing street highway or public road.

Section 10. The Secretary of Highways may, upon application of a County Water Supply Authority, vacate or relocate at the sole cost of the County Water Supply Authority a portion of any State highway which the Authority finds it necessary in storing water in connection with its water supply business to occupy or flow with water.

State highways
relocation.

Section 11. A County Water Supply Authority which shall find it necessary in storing water in connection with its water supply business, to occupy or flow with water a portion of any street, highway or public road of any township, borough or county in the Commonwealth, so as to require the closing and vacation of the portion of highway rather than the relocation thereof, shall petition the court of quarter sessions of the county in which the street, highway or public road to be closed and vacated is located. The court shall order a hearing and notice thereof. If the court finds that the proposed closing or vacation will be less burdensome and inconvenient than relocation, realignment or a substitute route, having due regard both to the inconvenience to the traveling public, if any, which will result from the proposed closing or vacation and to the cost of any feasible relocation or realignment, the court may order the closing and vacation of the portion of the street highway or public road.

Power to close
or vacate streets
subject to court
approval.

Section 12. If any abandoned well on private property is contributing pollution, acid or salts to waters to be stored or used by a County Water Supply Authority in its water supply business, a suit in equity or at law to abate the nuisance may be instituted by the Authority in the court of common pleas (1) of the county where the nuisance exists, or (2) of any county through which or along the borders of which the polluted water flows or is used. Notice of all such proceedings shall be served

Abandoned wells
as nuisances.

* "minimal" in original.

on the Attorney General who shall have the right to intervene in such proceedings on behalf of the Commonwealth. If the court finds that a public nuisance exists, it shall authorize its abatement by the Authority if no responsible person is found who, by decree of the court, can be required to abate it. Pursuant to the court order, the Authority may enter upon private lands or enclosures to abate the public nuisance and, at its own cost, seal any abandoned well covered by the decree of the court and which at the time is contributing pollution, acid or salts to waters to be stored or used by the Authority in its water supply business.

Power to sell water.

Section 13. A County Water Supply Authority shall have the right and power to supply, furnish and sell water or water service for public or private use to persons, partnerships, corporations, authorities, water companies, municipalities, governmental subdivisions of this Commonwealth or any of their agencies either within or without the territorial limits of the county or counties which organized the Authority. In so doing, it shall not compete with an existing enterprise providing the same service, nor shall the organization of such an authority preclude the subsequent incorporation of privately-owned water supply companies to serve areas not being served by the Authority.

Municipality authority or public utility authorized to enter into contracts for purchase of water.

Section 14. Any municipality authority or public utility may enter into a contract with a County Water Supply Authority for the purchase of water or water service at such prices for such periods not exceeding sixty-five years and upon such other terms and conditions as are agreed upon between the parties.

Construction.

Section 15. This act shall not be construed as in any way expanding or limiting the powers of Authorities other than County Water Supply Authorities organized and operating under the act to which this is a supplement.

Severability.

Section 16. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application. To this end the provisions of this act are declared to be severable.

General repeal.

Section 17. All acts or parts of acts are repealed in so far as they are inconsistent herewith.

Act effective immediately.

Section 18. This act shall take effect immediately.

APPROVED—The 18th day of July, A. D. 1957.

GEORGE M. LEADER