

No. 107

AN ACT

HB 2343

Amending the act of August 9, 1955 (P. L. 323), entitled "An act relating to counties of the third, fourth, fifth, sixth, seventh and eighth classes; amending, revising, consolidating and changing the laws relating thereto," providing for the appointment of an assistant county solicitor in counties of the fourth class.

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

Section 1. Section 904, act of August 9, 1955 (P. L. 323), known as "The County Code," amended November 9, 1959 (P. L. 1391), is amended to read:

Section 904. Assistant Solicitors in Third and Fourth Class Counties.—In counties of the third class, the county commissioners may appoint not more than three assistant county solicitors, and, with the approval of the court of common pleas, special counsel who shall be attorneys at law admitted to practice in the courts of this Commonwealth. In counties of the fourth class, the county commissioners may appoint an assistant solicitor who shall be an attorney at law admitted to practice in the courts of this Commonwealth. Each assistant and special counsel shall perform such duties in connection with the legal affairs of the county as may be assigned to him by the county commissioners or the county solicitor.

APPROVED—The 19th day of June, A. D. 1968.

RAYMOND P. SHAFER

No. 108

A SUPPLEMENT

SB 892

To the act of June 12, 1931 (P. L. 575), entitled "An act providing for joint action by Pennsylvania and New Jersey in the development of the ports on the lower Delaware River, and the improvement of the facilities for transportation across the river; authorizing the Governor, for these purposes, to enter into an agreement with New Jersey; creating The Delaware River Joint Commission and specifying the powers and duties thereof, including the power to finance projects by the issuance of revenue bonds; ¹ transferring to the new commission all the powers of the Delaware River Bridge Joint Commission; and making an appropriation," authorizing and

¹ "transferring" in original.

empowering the Delaware River Port Authority to finance, construct, erect, acquire, operate, maintain, lease, own and otherwise deal with terminals and terminal facilities, one in the vicinity of Highland avenue and the Delaware river, in the city of Chester, Pennsylvania, and the other in the vicinity of Beckett street and the Delaware river, in the city of Camden, County of Camden, New Jersey, together with appurtenances thereto, to make ¹ charges for the use thereof, and granting and defining and continuing certain powers of eminent domain and other functions, powers, duties and privileges; all of said actions to be taken pursuant and in accordance with this act and the compact or agreement, and the amendments and supplements thereto, between New Jersey and Pennsylvania, dated July 1, 1931, August 23, 1951, August 30, 1951, June 25, 1963, and June 26, 1963, and the consent by the Congress of the United States thereto and any further amendments or supplements thereto.

Whereas, The Legislature finds an urgent need for development of port facilities in South Jersey; and

Whereas, The Legislature finds that an urgent need exists for the development of port facilities in the Commonwealth of Pennsylvania; and

Whereas, The Legislature finds that such development can best be undertaken by the Delaware River Port Authority; and

Whereas, The Legislature finds it to be of mutual advantage to the State of New Jersey and the Commonwealth of Pennsylvania that the Delaware River Port Authority shall proceed with projects for the improvement and development of the port district for port purposes; and

Whereas, The Legislature believes that the Delaware River Port Authority, insofar as possible, should be the exclusive agency of the States for port development in its area; and

Whereas, The Legislature finds it would be advantageous to such port development for the Delaware River Port Authority to acquire and operate the facilities of the South Jersey Port Commission; and

Whereas, The Legislature finds that the indebtedness of the South Jersey Port Commission exceeds the probable appraised value of its facilities so that it will be necessary to reduce such indebtedness in order to make possible the acquisition of such facilities by the Delaware River Port Authority; and

Whereas, The Legislature finds that the development of port facilities in the Commonwealth of Pennsylvania is vital for continued port development; and

Whereas, Article XII of the compact between the States creating said Delaware River Port Authority provides that it shall not be within the power of the authority to undertake such projects unless and until the Legislatures of the States of Pennsylvania and New Jersey shall have authorized the commission to so proceed; and

Whereas, The Delaware River Port Authority, pursuant to Article XII of the compact between the States has requested of said Legislatures the authority to proceed with the acquisition of the facilities of the South Jersey Port Commission and has requested authority to

¹ "changes" in original.

proceed with development of port projects in Chester, Pennsylvania, now therefore,

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

ARTICLE I

Section 1. The Delaware River Port Authority (hereinafter sometimes called the "authority"), after investigation and study, having concluded plans with estimates of costs and means of financing for new projects for the improvement and development of the port district for the port purposes consisting of terminals and terminal facilities, one in the vicinity of Highland avenue and the Delaware river, in the city of Chester, Pennsylvania, comprising approximately 90 acres, and the other in the vicinity of Beckett street and the Delaware river, in the city of Camden, county of Camden, New Jersey, comprising approximately 39 acres, together with such nearby real estate, not to exceed 200 acres at each of the said locations, as may be deemed necessary or desirable; and the authority having made to the Legislature of the Commonwealth of Pennsylvania and to the Legislature of the State of New Jersey a report dealing only with said projects, and having requested of said Legislatures authority to proceed with the projects described in the report, all pursuant to, in accordance with and as provided in the compact or agreement between the Commonwealth of Pennsylvania and State of New Jersey hereinafter mentioned, the authority is hereby authorized and empowered to finance, construct or rent, acquire by purchase or condemnation, operate, maintain, lease, own and otherwise deal with such terminals and terminal facilities and to proceed with the said projects outlined in said detailed report. The authority, in addition to other public purposes now or hereafter provided for it and other powers and duties now or hereafter conferred upon it and not in limitation thereof, and notwithstanding the provisions of any act shall have among its authorized purposes the financing, construction, erection, acquisition, maintenance, leasing and ownership of such terminals and terminal facilities, all pursuant to, in accordance with and as provided in this act and the agreement or compact as heretofore or hereafter amended or supplemented (herein sometimes called the "compact") between the Commonwealth of Pennsylvania and State of New Jersey, creating the Delaware River Port Authority as a body corporate and politic, and defining its powers and duties, which said compact as amended or supplemented to January 15, 1965, is duly authorized by the acts of the Commonwealth of Pennsylvania, approved June 12, 1931, Act No. 200, Pamphlet Laws 575; July 18, 1951, Act No. 214, Pamphlet Laws 1010; August 10, 1951, Act No. 274, Pamphlet Laws 1206; Act No. 69, Pamphlet Laws 102, June 11, 1963; and by the laws of the State of New Jersey, approved June 30, 1931, chapter 391, Public Laws 1931; June 26, 1951, chapter 287, Public Laws 1951; June 26,

1951, chapter 288, Public Laws 1951; chapter 92, Public Laws 1963; and has been duly consented to by the Congress of the United States by Public Resolution No. 26, Seventy-Second Congress (S. J. Resolution 41) approved June 14, 1932, Public Law 573, chapter 921; Eighty-Second Congress, Second Session, approved July 17, 1952, Public Law 574, chapter 922; Eighty-Second Congress, Second Session, approved July 17, 1952; Eighty-Eighth Congress, approved June 13, 1964, Public Law 320 (Resolution 7332).

Section 2. (a) For the effectuation of any of its purposes authorized by this act, the authority is hereby granted, in addition to and in support of any other powers heretofore or hereafter granted to it, power and authority to acquire in its name by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain, any land and other property which it may determine is reasonably necessary for the terminals and terminal facilities referred to in this act or for the construction thereof as the authority shall deem necessary, and any and all rights, title and interest in such land and other property, including public lands, parks, playgrounds, reservations, highways, or parkways, owned by or in which any public body of the Commonwealth of Pennsylvania or State of New Jersey has any right, title or interest, or parts thereof or rights therein and any fee simple absolute or any lesser interest in private property, and any fee simple absolute in, easements upon, or the benefit of restrictions upon, abutting property to preserve and protect such terminals and terminal facilities, the approaches, rail and highway connections thereto. Upon the exercise of the power of eminent domain under this act, the compensation to be paid with regard to property located in the Commonwealth of Pennsylvania shall be ascertained and paid as provided by any applicable condemnation law in force in such Commonwealth and acts amendatory thereof and supplementary thereto insofar as the provisions thereof are applicable and not inconsistent with the provisions of the compact and of this act; and upon the exercise of the power of eminent domain, the compensation to be paid with regard to property located in the State of New Jersey shall be ascertained and paid in the manner provided in chapter 1 of Title 20 of the Revised Statutes of New Jersey insofar as the provisions thereof are applicable and not inconsistent with the provisions of the compact and of this act. The authority may join, in separate subdivisions in one petition, declaration or 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 petition; declaration or complaint may be condemned in a single proceeding: *Provided*, however, That separate awards shall 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.

(b) In addition to any other powers heretofore or hereafter granted

to it, the authority, in connection with construction or operation of the project authorized by this act, shall have power to make reasonable regulations for the installation, construction, maintenance, repair, renewal, relocation and removal of tracks, pipes, mains, conduits, cables, wires, towers, poles or any other equipment and appliances (in this paragraph (b) called "works") in the State of New Jersey of any public utility as defined in section 48:2-13 of the Revised Statutes of New Jersey in, on, along, over or under any such project. Whenever in connection with the construction or operation of such project the authority shall determine that it is necessary that any such works, which now are or hereafter may be located in, on, along, over or under such project shall be relocated in such project, or should be removed therefrom, the public utility owning or operating such works shall relocate or remove the same in accordance with the order of the authority, provided, however, that the cost and expenses of such relocations or removal, including the cost of installing such works in a new location or new locations, and the cost of any lands or any rights or interest in lands or any other rights acquired to accomplish such relocation or removal, less the cost of any lands or any rights or interests in lands or any other rights of the public utility paid to the public utility in connection with the relocation or removal of such works, shall be paid by the authority and shall be included in the cost of such project. In case of any such relocation or removal of works as aforesaid, the public utility owning or operating the same, its successors or assigns, may maintain and operate such works, with the necessary appurtenances, in the new location or new locations for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such works in their former location.

(c) Whenever the authority acquires under this ¹section 2 the whole or any part of the right of way of a public utility located in the Commonwealth of Pennsylvania, the authority shall, at its own expense, provide a substitute right-of-way on another and favorable location. Such public utility shall thereupon provide for the transfer to, or reconstruction upon, in, under or above said substitute right-of-way of any structures and facilities of said public utility located upon, in, under or above said original right-of-way at the time the same is so acquired. The authority is hereby authorized to enter into agreements with such public utility to contribute toward the expense of such transfer or reconstruction, and in the event that they are unable to agree on the amount to be paid, the matter shall be referred to the Pennsylvania Public Utility Commission which shall, after hearing thereon, make a finding of the amount to be paid to such public utility by the authority. In case of failure of such public utility, within a reasonable time after notice so to do, to remove its facilities to such substitute right-of-way, the Pennsylvania Public Utility Commission shall have jurisdiction, on petition of the authority, to order such transfer or reconstruction. Any party to such pro-

¹ "paragraph" in original.

ceedings shall have the right of appeal from the ruling of the Pennsylvania Public Utility Commission. The authority is hereby authorized to acquire, by purchase or by the exercise of the power of eminent domain, any necessary land or right-of-way for the relocation of any such public utility right of way and facilities. The substitute right-of-way thus acquired shall be equal in estate to the original right-of-way acquired from the public utility, and the authority shall deliver to the public utility a deed, duly executed and acknowledged, conveying to it an estate in the substitute right-of-way at least equal to that owned by the public utility in the original right-of-way, or if such substitute right-of-way is to be acquired by purchase, the authority shall procure and deliver to the public utility a deed conveying such estate to it from the owner of the land on which such substitute right-of-way is located.

This subparagraph (c) shall have no application to the relocation of public utility facilities located in the beds of public streets, roads or highways.

Section 3. The authority and its duly authorized agents and employees may enter upon any land in the Commonwealth of Pennsylvania and State of New Jersey for the purpose of making such surveys, maps or other examinations thereof as it may deem necessary or convenient for the purposes of acquiring and constructing the terminals and terminal facilities authorized hereby.

Section 4. In addition to all tax exemptions given by the compact to the authority, to its property, and to the bonds or other securities or obligations issued by it, no property, real or personal, nor its transfer or use, shall be subject to any tax by the Commonwealth of Pennsylvania or the State of New Jersey, or any political subdivisions of either of them, imposed on the purchase, use, sale, transfer or on the privilege of transferring title to such property, or on the execution, delivery or recording of any written instrument in connection therewith, to or by the authority, in carrying out the project authorized by this act or in carrying out any other undertaking of the authority.

Section 5. As provided in the compact and, in any event, not in derogation of any powers granted therein or in any manner heretofore, the authority is authorized to establish, levy, collect and combine tolls, rents, rates and other charges and revenues in accordance with the compact and the Congressional consents thereto as it may deem convenient or necessary and for the use of the terminals and terminal facilities, and to use and pledge the same as provided in the compact and the Congressional consents thereto. The terminals and terminal facilities may be constructed, in whole or in part, with funds to be raised by the authority on bonds or other securities or obligations issued or incurred by it pursuant to the compact.

Section 6. Notwithstanding any provision of this act, the authority shall have no power to pledge the credit of the Commonwealth of Pennsylvania, or the credit of the State of New Jersey, or the credit of any county, city, borough, village, township or other municipality

of said Commonwealth or of said State, or to create any debt of said Commonwealth or of said State or of such municipality.

Section 7. Any powers vested in the authority by this act shall be in addition to and not in diminution of the powers heretofore vested by law in the authority.

Section 8. This act shall take effect immediately.

APPROVED—The 19th day of June, A. D. 1968.

RAYMOND P. SHAFER

No. 109

AN ACT

HB 2170

To promote the welfare of the people of the Commonwealth of Pennsylvania; to promote the secular education of children of the Commonwealth of Pennsylvania attending nonpublic schools; creating a Nonpublic Elementary and Secondary Education Fund to finance the purchase of secular educational services from nonpublic schools located within the Commonwealth of Pennsylvania for the benefit of residents of the Commonwealth of Pennsylvania; authorizing the Superintendent of Public Instruction to enter into contracts to carry out the intent and purposes of this act, and to establish such rules and regulations as are necessary; providing for the payment of administrative costs incident to the operation of the act; providing procedures for reimbursement in payment for the rendering of secular educational service; and designating a portion of revenues of the State Harness Racing Fund and of the State Horse Racing Fund as the sources of funds.

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 “Nonpublic Elementary and Secondary Education Act.”

Section 2. Legislative Finding; Declaration of Policy.—It is hereby determined and declared as a matter of legislative finding—

(1) That a crisis in elementary and secondary education exists in the Nation and in the Commonwealth involving (i) the new recognition of our intellectual and cultural resources as prime national assets and of the national imperative now to spur the maximum educational development of every young American’s capacity; (ii) rapidly increasing costs occasioned by the rise in school population, consequent demands for more teachers and facilities, new but costly demands, in the endeavor for excellence, upon education generally; the general impact of inflation upon the economy; and the struggle of the Commonwealth, commonly with many other states, to find sources by