

No. 1982-224

AN ACT

SB 254

Amending the act of July 28, 1953 (P.L.723, No.230), entitled, as amended, "An act relating to counties of the second class and second class A; amending, revising, consolidating and changing the laws relating thereto," providing for a hotel room rental tax in counties of the second class A, providing for the manufacture and sale of electricity by counties of the second class, further providing for improvements in public parks, authorizing the establishment and maintenance of horse show rings in public parks and making an editorial change.

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

Section 1. Section 1970.2, act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," added December 16, 1977 (P.L.323, No.94), is amended to read:

Section 1970.2. Hotel Room Rental.—(a) The following words and phrases when used in this section shall have, unless the context clearly indicates otherwise, the meanings ascribed to them in this section:

"Consideration," receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

"Convention center or exhibition hall," a building or series of buildings together with any land appurtenant thereto, the main function of which is to house meetings, exhibitions, shows, conventions, assemblies, convocations, and similar gatherings.

"Cooperating political subdivision or agency of government," any city or public authority located in such county within whose boundaries a convention center or exhibition hall is planned or constructed which shares with the county any duties, obligations or privileges with respect to the convention center situated therein.

"Hotel," a hotel, motel, inn, guest house, or other building located within the taxing jurisdiction which holds itself out by any means including advertising, license, registration with any innkeeper's group, convention listing association, travel publication or similar association or with any government agency as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; any place recognized as a hostelry: Provided, That portions of such facility which are devoted to persons who have established permanent residence shall not be included in this definition.

"Occupancy," the use or possession or the right to the use or possession by any person other than a permanent resident of any room in a

hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

“Operator,” any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of, or otherwise possess the right to rent or lease overnight accommodations in any hotel to the public for consideration.

“Operating deficit,” the excess of expenses over receipts from the operation and management of a convention center or exhibition hall.

“Patron,” any person who pays the consideration for the occupancy of a room or rooms in a hotel.

“Permanent resident,” any person who has occupied or has the right to occupancy of any room or rooms in a hotel as a patron or otherwise for a period exceeding thirty (30) consecutive days.

“Room,” a space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation provided therein.

“Temporary,” a period of time not exceeding thirty (30) consecutive days.

“Transaction,” the activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an express or an implied contract.

“Transient,” any individual who obtains accommodation in any hotel for himself by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual by paying to the operator of the facility a fee in consideration therefor.

(b) The county commissioners in each county of the second class are hereby authorized to impose an excise tax not to exceed one per centum (1%) on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate transients. *The county commissioners in each county of the second class A are hereby authorized to impose an excise tax not to exceed three per centum (3%) on the consideration received by each operator of a hotel within the county from each transaction of renting a room or rooms to accommodate transients.* The tax shall be collected by the operator from the patron of the room and paid over to the county as herein provided.

(c) The treasurer of each county electing to impose the tax authorized under this section is hereby directed to collect the tax and *in counties of the second class* to deposit the revenues received from the tax in a special fund established solely for purposes of a convention center or exhibition hall. *In counties of the second class A the revenues shall be deposited in a special fund established solely for purposes of travel and tourism promotion and advertising related to such promotion.* The treasurer is hereby authorized to establish rules and regulations concerning the collection of the tax.

(d) **[Expenditures]** *In counties of the second class, expenditures* from the fund established pursuant to subsection (c) shall be used for all pur-

poses which a public authority may determine to be reasonably necessary to the support, operation and maintenance of a convention center or exhibition hall, including but not limited to the following:

[(1) precompletion advertising and publicizing of any convention center or exhibition hall;

(2) promoting and attracting conventions, exhibitions and other functions to utilize the convention center or exhibition hall;]

(1) advertising and publicizing tourist attractions in the area served by the agency;

(2) promoting and otherwise encouraging the use of the facilities in the area served by the agency by the public as a whole;

(3) promoting and attracting conventions, exhibitions and other functions to utilize facilities in the area served by the agency;

(4) precompletion advertising and publicizing of any convention center or exhibition hall;

(5) promoting and attracting conventions, exhibitions and other functions to utilize the convention center or exhibition hall;

[(3)] (6) promoting and otherwise encouraging the use of the premises by the public as a whole, or any segment thereof;

[(4)] (7) operating, furnishing and otherwise maintaining and equipping the premises and realty appurtenant thereto;

[(5)] (8) furnishing and equipping the building and grounds.

It is the intention of this section that the receipts from any tax imposed pursuant to the provisions of this act be used *in counties of the second class* to offset the entire operating deficit, if any, of any convention center or exhibition hall including, equally, shares of any cooperating political subdivision or agency of government incurred pursuant to any agreement presently existing or executed hereafter. The operating deficit shall be determined by any public authority which is the designated operating agency of any convention center or exhibition hall.

(d.1) In counties of the second class A, expenditures from the fund established pursuant to subsection (c) shall be annually appropriated by the county commissioners for tourist promotion activities, to be executed by the designated tourist promotion agency for:

(1) marketing the area served by the agency as a leisure travel destination;

(2) marketing the area served by the agency as a convention and business travel destination;

(3) marketing the area served by the agency to the public as a whole for use of its tourist and convention facilities;

(4) using all appropriate marketing tools to accomplish these purposes, including advertising, publicity, publications, direct marketing, direct sales, participation in travel trade shows, etc.

The county commissioners may deduct from the funds collected any direct or indirect costs attributable to the collection of the tax.

(e) (1) The provisions of this section relating to counties of the second class shall remain in force from year to year until December 31, 1983, at which time such provisions shall terminate without further

action on the part of the county commissioners. Revenues in excess of amounts needed to offset operating deficits shall be determined by the public authority and may be accumulated, and any revenues may be used to provide part or all of any annual payment to be paid by a county or a political subdivision under any agreement with any public authority created under the act of July 29, 1953 (P.L.1034, No.270), known as the "Public Auditorium Authorities Law," which has been designated as the operating agency for a convention center or exhibition hall in support of bonds issued by the public authority; or to effect necessary expansion or further capital improvements, within the discretion of the cooperating political subdivisions and the public authority.

(2) The provisions of this section relating to counties of the second class A shall remain in force for three (3) years from the effective date of this act, at which time such provisions shall terminate without further action on the part of the county commissioners.

(f) Each tax year for any tax imposed hereunder shall run concurrently with the calendar year.

Section 2. The act is amended by adding an article to read:

ARTICLE XXI-A
Production of Electricity

Section 2101-A. Manufacture and Sale of Electricity.—Any county of the second class may manufacture electricity by means of a hydroelectric generating facility owned or operated by the county. Any county of the second class owning or operating a hydroelectric generating facility may make contracts for the sale of electricity to persons engaged in the business of the manufacture or sale of electricity.

Section 2102-A. Use and Rate Regulation.—Any county of the second class furnishing electricity pursuant to this article may regulate the use and sale of said electricity in dwellings, business places and other places in such county, and the rate to be charged for the same.

Section 2103-A. Sale of Power Developed from Hydroelectric Facilities.—By ordinance, a county of the second class may sell or lease all or part of its hydroelectric generating facilities to a purchaser for such sale price as the parties may agree upon.

Section 2104-A. Construction or Purchase of Hydroelectric Generation Facilities.—Any county of the second class may construct or purchase facilities or real estate for the purpose of manufacturing electricity by hydroelectric generation. Any county of the second class may purchase a hydroelectric generating facility at such price as may be agreed upon by the county and the person, copartnership or a majority of the stockholders of a corporation that owns such facility.

Section 2105-A. Debt Limitations.—Any county of the second class which constructs or purchases a hydroelectric facility may incur debt as necessary for the construction or rehabilitation of a new or existing dam or impoundment, including acquisition of land or real estate, and aerial right-of-way amenities, and may incur debt for repairs or reconstruction

to an existing or new impoundment in connection with hydroelectric power generation.

Section 2106-A. Authority Compliance.—*A county of the second class desiring to construct, or purchase, or operate, or sell a hydroelectric facility, as a municipal body, may authorize an existing authority or establish a new authority to operate, generate or sell the power from the authority's hydroelectric facilities under the laws of the Commonwealth authorizing the creation and jurisdiction of municipal authorities.*

Section 3. Sections 3001 and 3002 of the act are amended to read:

Section 3001. Acquisition of Land and Buildings for Recreation Places.—(a) The county commissioners may designate and set apart for use as parks, parkways, bridle paths, *horse show rings*, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers, and as agricultural fairgrounds, any lands or buildings owned by such county and not dedicated or devoted to other public use.

(b) The county commissioners may also acquire lands or buildings for such purposes by gift, purchase or may lease lands or buildings in such county for temporary use for such purposes.

Section 3002. Equipment and Maintenance.—The authority to supervise, build and maintain fairgrounds, parks, parkways, bridle paths, *horse show rings*, footpaths, playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers may be vested in any existing body or board, or in a park board, or recreation board, or fair board, as the county commissioners may determine. The county commissioners of the county may equip, operate and maintain the fairgrounds, parks, parkways, bridle paths, *horse show rings*, foot paths, playgrounds, playfields, gymnasiums, swimming pools, public baths or indoor recreation centers as authorized by this act, and may, for the purpose of carrying out the provisions of this act, employ play leaders, recreation directors, supervisors, superintendents or any other officers or employes, as they deem proper.

Section 4. Section 3003 of the act, amended August 10, 1965 (P.L.321, No.170), is amended to read:

Section 3003. Fair, Park and Recreation Boards.—(a) If the county commissioners shall determine that the power to supervise fairgrounds, parks, parkways, bridle paths, *horse show rings*, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools or recreation centers shall be exercised by a park board or recreation board or fair board, they may establish in said county such fair board, park board or recreation board, which shall possess all the powers and be subject to all the responsibilities of the respective county commissioners. Any of such boards when established, shall consist of a minimum of five persons and a maximum of nine persons.

(b) The members of such boards shall be appointed by the commissioners of such county and shall be appointed for a term to extend no longer than five years and the terms of the members shall be staggered in such a manner that at least one expires annually. Members of such board

shall serve without pay. **[Women shall be eligible for appointment.]** Vacancies in such board occurring otherwise than by expiration of term shall be for the unexpired term and shall be filled in the same manner as original appointments.

Section 5. Sections 3005 and 3006, subsection (a) of section 3007 and section 3028 of the act are amended to read:

Section 3005. Joint Action.—The county authorized by this act to acquire property for and operate and maintain any fairgrounds, parks, parkways, bridle paths, *horse show rings*, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers may acquire property for such purposes, and operate and maintain the same jointly with any other county or any city, borough, township or school district.

Section 3006. Indebtedness.—The county commissioners may issue bonds for the purpose of acquiring lands or buildings for fairgrounds, parks, parkways, bridle paths, *horse show rings*, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools or indoor recreation centers, and for the equipment thereof.

Section 3007. Payment of Expenses; Taxation; Annual Fairs; State Contributions.—(a) All expenses incurred in the operation of such fairgrounds, parks, parkways, bridle paths, *horse show rings*, foot paths, playgrounds, playfields, gymnasiums, swimming pools, public baths and indoor recreation centers, established as herein provided, shall be payable from the treasury of such county. The county commissioners may annually appropriate and cause to be raised by taxation such tax, not to exceed two mills on the dollar of the assessed valuation of taxable property in such county, for the purpose of maintaining and operating such fairgrounds, parks, parkways, bridle paths, *horse show rings*, foot paths, playgrounds, playfields, gymnasiums, public baths, swimming pools and recreation centers.

* * *

Section 3028. Improvements in Parks.—The county commissioners shall have the power to govern, manage, operate, lay out, plant and ornament the said public parks, and to maintain the same in good order and repair, and to construct all proper bridges, buildings, roadways, lakes, golf courses, playgrounds, *bridle paths*, *horse show rings* and other improvements therein, and to make rules and regulations for the conduct of the patrons thereof, and to repress all disorders therein, under the provisions hereinafter contained.

Section 6. (a) Sections 2, 3, 4 and 5 shall take effect in 60 days.

(b) The remainder of this act shall take effect immediately.

APPROVED—The 7th day of December, A. D. 1982.

DICK THORNBURGH