

No. 1982-230

AN ACT

HB 2520

Amending the act of June 5, 1947 (P.L.458, No.208), entitled, as amended, "An act creating as bodies corporate and politic 'Parking Authorities' in cities of the first, second, second A and third classes, boroughs, and townships of the first class; prescribing the rights, powers and duties of such authorities; authorizing such authorities to acquire, construct, improve, maintain and operate parking projects; to conduct research of the parking problem, and to establish a permanent coordinated system of parking facilities, 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; empowering such authorities to enter into contracts with, and to accept grants from, the Federal Government, State, political subdivisions of the State or any agency thereof; exempting the property and securities of such parking authorities from taxation and conferring exclusive jurisdiction on certain courts over rates," empowering an Authority where authorized by ordinance or resolution of the municipality which created it to administer and enforce on-street parking regulations and providing that moneys collected and received by an Authority on behalf of the municipality are not subject to debts and obligations of the Authority.

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

Section 1. The title, act of June 5, 1947 (P.L.458, No.208), known as the "Parking Authority Law," amended May 10, 1951 (P.L.291, No.57), is amended to read:

AN ACT

Creating as bodies corporate and politic "Parking Authorities" in cities of the first, second, second A and third classes, boroughs, and townships of the first class; prescribing the rights, powers and duties of such authorities; authorizing such authorities to acquire, construct, improve, maintain and operate parking projects[;], to conduct research of the parking problem, [and] to *supervise, operate and administer an efficient coordinated system of on-street parking regulation where so authorized by municipal ordinance or resolution*, to establish a permanent coordinated system of *off-street* parking facilities, and to borrow money and issue bonds *for such facilities* 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; empowering such authorities to enter into contracts with, and to accept grants from, the Federal Government, State, political subdivisions of the State or any agency thereof; exempting the property and securities of such parking authorities from taxation and conferring exclusive jurisdiction on certain courts over rates *for their facilities*.

Section 2. Subsection (g) of section 2 of the act, amended July 22, 1965 (P.L.224, No.124), is amended to read:

Section 2. Findings and Declaration of Policy.—

It is hereby determined and declared as a matter of Legislative finding:

* * *

(g) That this parking crisis, which threatens the welfare of the community, can be reduced by *administering and enforcing an efficient system of on-street regulation, and by* providing sufficient off-street parking or parking terminal facilities, or both properly located in the several residential, commercial and industrial areas of the city, borough, or township of the first class;

* * *

Section 3. Section 3 of the act is amended by adding clauses to read:

Section 3. Definitions.

The following terms whenever used or referred to in this act shall have the following meanings, except in those instances where the context clearly indicates otherwise:

* * *

(l) *The term "off-street parking" shall mean the parking of vehicles in locations other than public streets or thoroughfares, including without limitation, all facilities of an Authority, as well as private and public parking lots and parking garages.*

(m) *The term "on-street parking" shall mean the parking of vehicles on public streets or thoroughfares located within the physical boundaries of a municipality.*

(n) *The term "boot" shall mean the act of placing on a parked vehicle a mechanical device, which is designed to be attached to the wheel or tire of such vehicle so as to prohibit its movement, for the enforcement of on-street parking regulations or delinquent parking tickets or fines.*

Section 4. Subsection (a) of section 5 of the act, amended June 19, 1969 (P.L.90, No.32), is amended to read:

Section 5. Purposes and Powers; General.—

(a) The Authority, incorporated under this act, shall constitute a public body corporate and politic, exercising public powers of the Commonwealth as an agency thereof, and shall be known as the Parking Authority of the city, borough, or township of the first class, but shall in no way be deemed to be an instrumentality of the city, borough, or township of the first class or engage in the performance of a municipal function, *except such functions as are delegated to it by municipal ordinance or resolution passed pursuant to this act.* The Authority shall be for the purpose of conducting the necessary research activity, to maintain current data leading to efficient operation of off-street parking or parking terminal facilities, or both for the fulfillment of public needs in relation to *such* parking, *administering and enforcing an efficient and coordinated system of on-street parking regulations where so authorized by municipal ordinance or resolution,* establishing a permanent coordinated system of parking or parking terminal facilities, or both planning,

designing, locating, acquiring, holding, constructing, improving, maintaining and operating, owning, leasing, either in the capacity of lessor or lessee, land and facilities to be devoted to the parking of vehicles of any kind: Provided, however, That the Authority shall not have the power to engage in the sale of gasoline, the sale of automobile accessories, automobile repair and service, or any other garage service and shall not engage in the sale of any commodity of trade or commerce.

The Authority shall have the power to lease portions of the street level or other floors of the parking facilities for commercial use and for any use in addition to parking, including emergency automobile repair service, and the sale, by the lessee, of any commodity of trade or commerce or any service, and, except the sale of gasoline or the sale of automobile accessories, where, in the opinion of the Authority, such leasing is desirable and feasible in order to assist in defraying the expenses of the Authority. Such leases shall be granted on a fair competitive basis on such negotiated or competitive basis as the Authority may deem best suited to accomplish the above purpose.

Nothing herein contained shall be construed to prohibit the sale or leasing by the Authority, upon such negotiated or competitive basis as it may determine, of the right to occupy and use the space above or under any parking facility for any use in addition to parking (except the sale of gasoline or the sale of automobile accessories), together with the right to use and occupy such space within the parking facility as may be necessary for the purpose of access to and support of structures occupying the space above such parking facility.

* * *

Section 5. Clause (8) of subsection (b) of section 5 of the act, repealed in part June 3, 1971 (P.L.118, No.6), is amended and a clause is added to read:

Section 5. Purposes and Powers; General.—

* * *

(b) Every Authority is hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes including, but without limiting the generality of the foregoing, the following rights or powers:

* * *

(8) To fix, alter, charge and collect rates and other charges for its facilities at reasonable rates to be determined exclusively by it, subject to appeal as hereinafter provided, for the purposes of providing for the payment of the expenses of the Authority, the construction, improvement, repair, maintenance and operation of its facilities and properties, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations or with the city. Any person questioning the reasonableness of **[any rate] the foregoing rates** fixed by the Authority may bring suit against the Authority in the court of common pleas of the county wherein the project is located. The court of common pleas shall have exclusive jurisdiction to determine the reason-

ableness of *such* rates and other charges fixed, altered, charged or collected by the Authority *in connection with its facilities*.

* * *

(17) Notwithstanding anything to the contrary contained in this act, and provided the legislative body of the municipality which created the Authority shall so authorize by ordinance or resolution, the Authority shall have and exercise all powers necessary or convenient for the administration, supervision and enforcement of an efficient system of on-street parking regulation including, but without limitation, the power and right to conduct research and maintain data related to on-street parking activities, to issue parking tickets for illegally parked vehicles, to collect on behalf of a municipality rates and other charges, including fines and penalties, for uncontested on-street parking violations, to boot or tow, or both vehicles that are illegally parked or whose owner is delinquent in payment of previously issued parking tickets, and to own or lease any personal property used in connection with the exercise of any power provided herein. The exercise by the Authority of any power provided herein shall not be construed to constitute the prosecution of a summary offense under 42 Pa.C.S. Ch. 13 (relating to traffic courts).

Section 6. Section 6 of the act is amended by adding a subsection to read:

Section 6. Purposes and Powers; Bonds.—

* * *

(d) All moneys collected or received by the Authority on behalf of a municipality pursuant to section 5(b)(17) hereof shall not be deemed to constitute revenues and receipts of the Authority under the provisions of this act or be subject to any debt or obligation of the Authority.

Section 7. Section 10 of the act, amended November 23, 1977 (P.L.232, No.73), is amended to read:

Section 10. Moneys of the Authority.

[All] *Except as otherwise provided herein, all moneys of any Authority, from whatever source derived, shall be paid to the treasurer of the Authority. Said moneys shall be deposited, in the first instance by the treasurer at the direction of the Authority in one or more banks or bank and trust companies, in one or more special accounts or under savings contracts in savings associations in one or more special accounts, and each of such special accounts, to the extent the same is not insured, shall be continuously secured by a pledge of direct obligations of the United States of America, of the Commonwealth, or of the city, borough, or township of the first class creating the Authority having an aggregate market value, exclusive of accrued interest at all times, at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer or be held by a trustee or agent satisfactory to the Authority. All banks, bank and trust companies and savings associations are authorized to give such security for such deposits. The moneys in said accounts shall be paid out on the warrant or other order of the chairman of the Authority, or of such other person or persons as the Authority may authorize to execute such warrants or orders. In the*

case of moneys collected or received by the Authority on behalf of a municipality pursuant to section 5(b)(17), such moneys shall be pledged to the use of the municipality and disbursed to the municipality as provided by ordinance or resolution. Every Authority shall have at least an annual examination of its books, accounts and records by a certified public accountant. A copy of such audit shall be delivered to the city, borough, or township of the first class creating the Authority. A concise financial statement shall be published annually at least once in a newspaper of general circulation in the city, borough, or township of the first class where the principal office of the Authority is located. If such publication is not made by the Authority the city, borough, or township of the first class shall publish such statement at the expense of the Authority. If the Authority fails to make such an audit then the controller, auditors or accountant designated by the city, borough, or township of the first class are hereby authorized and empowered, from time to time, to examine at the expense of the Authority, the accounts and books of the Authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its finances, operation and affairs.

The Attorney General of the Commonwealth of Pennsylvania shall have the right to examine the books, accounts and records of any Authority.

Section 8. This act shall take effect immediately.

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

DICK THORNBURGH