

## No. 1982-312

## AN ACT

## SB 1487

Amending the act of August 23, 1967 (P.L.251, No.102), entitled, as amended, "An act providing for the incorporation as public instrumentalities of the Commonwealth and as bodies corporate and politic of industrial and commercial development authorities for municipalities, counties and townships; prescribing the rights, powers and duties of such authorities hereafter incorporated; authorizing such authorities to acquire, by gift or purchase, to construct, improve and maintain industrial, specialized, or commercial development projects including projects for the elimination or prevention of blight and the control of air and water pollution, and to borrow money and issue bonds therefor; providing for the payment of such bonds and giving security therefor, and prescribing the rights of the holders of such bonds; authorizing the lease or sale of industrial, specialized, or commercial development projects to industrial, specialized, or commercial enterprises; authorizing any county, municipality or township to transfer or convey to such authorities, any facilities or property available for industrial, specialized, or commercial development projects; exempting the property and securities of such authorities from taxation; authorizing such authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and providing for approval by the Secretary of Commerce of the proceedings relating to industrial, specialized, or commercial development projects of such authorities," by expanding the scope of the act to include facilities for the confinement or correction of prisoners and providing for applicable elected representatives.

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

Section 1. Clause (11) of section 2, act of August 23, 1967 (P.L.251, No.102), known as the "Industrial and Commercial Development Authority Law," added December 19, 1975 (P.L.576, No.165), is amended to read:

Section 2. Findings and Declaration of Policy.—It is hereby determined and declared as a matter of legislative finding:

\* \* \*

(11) That to protect the health, safety and general welfare of the people of the Commonwealth and to further encourage economic development within the Commonwealth by providing basic services and facilities, it is necessary to provide additional or alternative means of financing certain transportation *and other* facilities, industrial parks, nursing homes, energy conversion facilities and facilities for the furnishing of gas or through the use of coal-fired generating facilities, gas, or water available on reasonable demand to members of the general public.

Therefore, it is hereby declared to be the policy of the Commonwealth of Pennsylvania to promote the health, safety, morals, employment, business opportunities and general welfare of the people thereof by providing for the creation of industrial or commercial development authorities which shall exist and operate as public instrumentalities of the Commonwealth for the public purpose of alleviating unemployment, main-

taining employment at a high level, eliminating and preventing blight and eliminating or reducing air and water pollution, and creating and developing business opportunities by the construction, improvement, rehabilitation, revitalization and financing of industrial, commercial, manufacturing and research and development enterprises. Such purpose is hereby declared to be a public purpose.

Section 2. The definitions of "certain transportation facilities," "occupant" and "specialized enterprise" in section 3 of the act, amended December 19, 1975 (P.L. 576, No. 165), are amended to read:

Section 3. Definitions.—As used in this act:

\* \* \*

"Certain transportation *and other* facilities" means airports, docks, wharves, mass commuting facilities, public parking facilities, intermodal transportation facilities, or storage or training facilities directly related to any such facility *and facilities for the confinement or correction of prisoners*.

\* \* \*

"Occupant" means any person, partnership, or corporation engaged in an industrial, commercial or specialized enterprise and determined by the authority to be financially responsible to assume all obligations prescribed by the authority and this act in the lease, sale, and operation of a development project. The term "occupant" shall also mean (i) a financially responsible nonprofit development agency engaged in establishing development projects, whether for single or multiple occupancy for use by any person, partnership, or corporation engaged in any enterprise *or (ii) a person, partnership, or corporation engaged in furnishing facilities for confinement or correction of prisoners for use by any municipality*.

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"Specialized enterprise" means an enterprise, other than an industrial enterprise or a commercial enterprise, which by its nature or size requires substantial capital. The term "specialized enterprise" includes, and is expressly limited to, certain transportation *and other* facilities, nursing homes, industrial parks, facilities for the furnishing by a utility activity of gas or water available on reasonable demand to members of the general public, energy conversion facilities, energy-producing activities, and the construction of rail sidings, spurs, and branch lines.

\* \* \*

Section 3. Section 4 of the act is amended to read:

Section 4. Method of Incorporation; *Applicable Elected Representative*.—(a) Whenever the governmental body of any municipality shall desire to organize an authority under this act, it shall adopt a resolution or ordinance signifying its intention to do so.

Thereafter, the governmental body of such municipality shall cause a notice of such resolution or ordinance to be published at least one time in the legal periodical of the county in which such authority is to be organized, and at least one time in a newspaper, published and of general circulation, in such county. Said notice shall contain a brief statement of the substance of said resolution or ordinance, including the substance of

articles of incorporation making reference to this act, and shall state that on a day certain, not less than three days after publication of said notice, articles of incorporation of the proposed authority will be filed with the Secretary of the Commonwealth of Pennsylvania. The publication of such notice as aforesaid shall be the only publication required, any law to the contrary notwithstanding.

(b) On or before the day specified in said notice the governmental body shall file with the Secretary of the Commonwealth articles of incorporation together with proof of publication of the notice as aforesaid. Said articles of incorporation shall set forth:

- (1) The name of the authority;
- (2) A statement that such authority is formed under this act;
- (3) The name of the incorporating municipality, together with the names and addresses of the members of its governmental body;
- (4) The names, addresses and term of office of the first members of the board of said authority; and
- (5) The term of existence of the authority which shall not exceed fifty years; all of which matters shall be determined in accordance with the provisions of this act. Said articles of incorporation shall be executed by the governmental body by its proper officers and under its municipal seal.

(c) The Secretary of the Commonwealth shall forthwith, but not prior to the day specified in the aforesaid notice, and when all proper fees and charges have been paid, file the articles and issue a certificate of incorporation, a copy of which shall be delivered to the secretary. Upon the issuance of such certificate of incorporation by the Secretary of the Commonwealth, the corporate existence of said authority shall begin. Said certificate of incorporation shall be conclusive evidence of the fact that such authority has been incorporated.

*(d) Each of the following elected officials of each of the following respective political subdivisions within the Commonwealth of Pennsylvania is hereby designated and empowered to approve the issuance of bonds to finance the cost of industrial, specialized and commercial development projects within or without each such political subdivision and to approve the construction of industrial, specialized and commercial development projects within each such political subdivision:*

- (1) With respect to any county or any class, the applicable elected representative shall be any county commissioner designated for such purpose by the county commissioners of such county;*
- (2) With respect to any city of any class, the applicable elected representative shall be the mayor of such city or any council member designated by the mayor for such purpose;*
- (3) With respect to any township of the first class, the applicable elected representative shall be any township commissioner designated for such purpose by the township commissioners of such township;*
- (4) With respect to any township of the second class, the applicable elected representative shall be any township supervisor designated for such purpose by the township supervisors of such township;*

*(5) With respect to any borough, the applicable elected representative shall be the president of borough council or any council member designated by the president for such purpose;*

*(6) With respect to any political subdivision which has adopted a charter under the act of April 13, 1972 (P.L.184, No.62), known as the "Home Rule Charter and Optional Plans Law," the applicable representative designated and empowered to grant the approvals contemplated hereunder shall be the chief elected executive officer designated by the charter of such political subdivision, or, if there is no provision for such executive officer thereunder, the applicable representative shall be any member of the legislative body of such political subdivision designated by such body.*

Section 4. This act shall take effect immediately.

APPROVED—The 16th day of December, A. D. 1982.

DICK THORNBURGH