

No. 1994-3

AN ACT

HB 878

Amending Titles 74 (Transportation) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for the distribution of asset maintenance funds; authorizing the creation of a transportation authority to function in each metropolitan area consisting of any county of the first class and all nearby counties within a radius of 20 miles of any such first class county, as a body corporate and politic and as an agency and instrumentality of the Commonwealth for the purpose of establishing an integrated mass transportation system with all pertinent powers, including, but not limited to, leasing, acquiring, owning, operating and maintaining a system for or otherwise providing for the transportation of persons; authorizing the borrowing of money and issuance of bonds therefor and conferring the right of eminent domain on such an authority; altering the jurisdiction of the Pennsylvania Public Utility Commission; authorizing the acceptance of grants from Federal, State and local governments; limiting actions against such an authority and exempting it from taxation; authorizing counties and municipalities to enter into compacts for the financing of each authority and to make appropriations in accordance with such compacts; creating a citizen advisory committee; conferring exclusive jurisdiction upon certain courts with respect to matters relating to such authority and empowering each authority to function outside the metropolitan area under certain terms and conditions; continuing the existence of a presently existing transportation authority; providing for suspensions for offenses involving controlled substances, for certain out-of-State documentations, for reports by courts and for the allocation of oil company franchise tax revenues to the Pennsylvania Turnpike Commission; and making a repeal.

The General Assembly finds and declares as follows:

(a) Findings.—

(1) There exists in the urban and suburban communities in metropolitan areas, traffic congestion and serious mass transportation problems because of underdeveloped mass transportation facilities resulting in inadequate or overcrowded high-cost conditions on Commonwealth highways and existing mass transportation facilities.

(2) Such conditions or a combination of some or all of them have made and will continue to result in making such communities economic and social liabilities harmful to the social and economic well-being of the entire area, depreciating values therein, reducing the tax revenues, making the metropolitan areas and their constituent communities less desirable areas in which to live and work and thereby depreciating further the general community-wide values.

(3) The foregoing conditions cannot be effectively dealt with by private enterprise under existing law without the additional aids granted in this act and are beyond remedy or control by governmental regulatory processes.

(4) The sound planning and development of metropolitan mass transportation facilities in accordance with sound and approved plans for their promotion, development and growth will promote the public health, safety, convenience and welfare, and the public acquisition of existing

mass transportation facilities in accordance with the sound plans for their redevelopment and promotion will promote the public health, safety, convenience and welfare.

(5) The well-being and economic health of the counties and other communities in the metropolitan areas require integrated systems of mass passenger transportation.

(6) It is desirable that the public transportation systems in the metropolitan areas be improved, extended and supplemented by the creation of authorities as provided in this act.

(7) The establishment of metropolitan transportation authorities as authorities of the Commonwealth and the continuance of the existing metropolitan transportation authorities will promote the public safety, convenience and welfare.

(8) It is intended that metropolitan transportation authorities cooperate with or acquire existing transportation operators or facilities so that private enterprise and government may mutually provide adequate transit facilities for the convenience of the public.

(9) It is intended that any authority created or continued under this act will cooperate with all municipalities and other public bodies in whose territories it operates so that the transportation system may best serve the interests of the residents thereof.

(10) It is intended that the operation of a transportation system will enhance the quality of the environment of the metropolitan area by relieving highway congestion and providing for multipassenger traveling patterns.

(11) It is intended that residents of the metropolitan area may be provided with access to transportation facilities and the ability to travel within the metropolitan area regardless of disability or handicap.

(b) Declaration.—Therefore, it is hereby declared to be the policy of the Commonwealth to promote the safety and welfare of its inhabitants by authorizing the creation or continuation of a body corporate and politic for each metropolitan area, to be known as the transportation authority of such area, which shall exist and operate for the purposes contained in this chapter as an authority of the Commonwealth. These purposes are hereby declared to be public uses for which public money may be spent and private property may be acquired by the exercise of the power of eminent domain.

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

Section 1. Section 1311 of Title 74 of the Pennsylvania Consolidated Statutes is amended by adding a subsection to read:

§ 1311. Use of funds distributed.

\* \* \*

(j) *Limit on certain amounts expended.*—Notwithstanding any law to the contrary, local transportation organizations and transportation companies are authorized to expend moneys distributed pursuant to section 1310 for asset maintenance costs in an amount not to exceed the greater of:

(1) *the maximum amount of asset maintenance expenditures which could have been approved by the department for expenditure by that local transportation organization or transportation company for the 1991-1992 fiscal year pursuant to section 17(a) of the act of August 5, 1991 (P.L.238, No.26), entitled "An act amending Titles 74 (Transportation) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, codifying provisions relating to public transportation; imposing certain fees and taxes; further providing for certain Pennsylvania Turnpike projects; defining 'farm equipment'; further providing for the responsibilities of vehicle transferees, for exemptions from registration and certificates of title and for the use of dealer plates, multipurpose dealer plates and farm equipment plates; further providing for funeral processions; further providing for a restricted receipts fund and for registration for snowmobiles and ATV's; establishing the Snowmobile Trail Advisory Committee; further providing for the highway maintenance and construction tax; and making repeals," based upon a projection of \$200,000,000 in total dedicated capital assistance funds; or*

(2) *the amount permitted to be expended for such purposes under subsection (e).*

Section 2. Sections 1312(c) and 1313(b) of Title 74 are amended to read:

§ 1312. Community transportation programs.

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(c) [Next fiscal year] *Availability of funds.*—Funds not expended under this section in the fiscal year in which they were made available shall not lapse and shall be available for use pursuant to this section in the next [fiscal year] *succeeding fiscal years.*

§ 1313. Additional programs.

\* \* \*

(b) [Next fiscal year] *Availability of funds.*—Funds not expended under this section in the fiscal year in which they were made available shall not lapse and shall be available for use pursuant to this section in the next [fiscal year] *succeeding fiscal years.*

Section 3. Chapter 15 of Title 74 is repealed.

Section 4. Title 74 is amended by adding a chapter to read:

#### CHAPTER 17

#### METROPOLITAN TRANSPORTATION AUTHORITIES

##### Subchapter

- A. General Provisions
- B. Authorization and Organization of Authorities
- C. Powers and Duties

- D. Funds and Bonds of Authorities
- E. Miscellaneous Provisions

SUBCHAPTER A  
GENERAL PROVISIONS

Sec.

1701. Definitions.

§ 1701. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Authority.” Any body corporate and politic created under this chapter or created under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities) and continued under this chapter.

“Board.” The governing and policymaking body of an authority.

“Bonds.” Notes, bonds, bond anticipation notes, refunding notes and bonds, interim certificates, debentures and other evidences of indebtedness or obligations which an authority is authorized to issue under this chapter.

“Cash flow deficit.” A cash deficit occurring solely because revenues and expenditures, even when in balance on a fiscal year basis or with respect to any other period of computation, are not received and disbursed at equivalent rates throughout the fiscal year or other period of computation.

“Comprehensive transportation plan.” A comprehensive statement consisting of maps, charts and textual matter of an authority’s policies, strategies and objectives for the development of the transportation system consistent with the legislative findings and declared policy of this chapter and the rights, powers and duties of the authority.

“Department.” The Department of Transportation of the Commonwealth.

“Federal agency.” The Federal Government, the President of the United States and any department or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the Federal Government.

“Government agency.” The Governor, departments, boards, commissions, authorities and other officers and agencies of this Commonwealth, including, but not limited to, those which are not subject to the policy supervision and control of the Governor, any political subdivision, municipality, municipal or other local authority and any officer or agency of any such political subdivision or local authority. The term does not include any court or other officer or agency of the unified judicial system or the General Assembly or its officers and agencies.

“Government obligations.”

(1) Direct obligations of or obligations the principal of and interest on which are unconditionally guaranteed by the Federal Government, including, but not limited to, evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the Federal Government, which obligations are held in a custody account by a custodian under the terms of a custody agreement.

(2) The term includes obligations issued by any state of the United States or any political subdivision, public instrumentality or public authority of any state of the United States, provision for the full and timely payment of the principal or premium of and interest on which shall have been made by deposit with a trustee or escrow agent under an irrevocable security agreement of obligations described in paragraph (1).

“Legislative body.” The term shall mean, in counties of the first class, the city council, in the other counties, the board of county commissioners or the county council and, in the other municipalities, that body authorized by law to enact ordinances.

“Majority.” Any whole number constituting more than half of the total number.

“Master trust indenture.” A trust indenture, trust agreement or deed of trust providing for the incurrence of indebtedness guaranteed on a joint and several basis by a group of obligated issuers.

“Mayor.” The chief executive officer of any first class city in any first class county.

“Metropolitan area.” All of the territory within the boundaries of any county of the first class and all other counties located in whole or in part within 20 miles of the first class county.

“Municipality.” Any city, county, borough, incorporated town, township or other political subdivision. The terms “municipality” and “political subdivision” shall have the same meaning when used in this chapter.

“Obligee of an authority.” Any holder or owner of any bond of an authority or any trustee or other fiduciary for any such holder or any provider of a letter of credit, policy of municipal bond insurance or other credit enhancement or liquidity facility for bonds of an authority.

“Person.” The term shall mean and include corporations, partnerships, associations, Federal agencies, the Commonwealth, government agencies and other entities, as well as natural persons.

“Political subdivision.” Any county, city, borough, incorporated town, township, school district, vocational school district and county institution district.

“Project.” Any structure, facility or undertaking which an authority is authorized to acquire, construct, improve, lease, maintain, operate, contract for or otherwise function with respect to under the provisions of this or any other act, including, but not limited to, all work and material incidental thereto and all costs thereof, including all amounts necessary to place the project into operation.

“Qualified financial institution.” A bank, bank and trust company, trust company, national banking association, insurance company or other financial services company whose unsecured long-term debt obligations, in the case of a bank, trust company, national banking association or other financial services company, or whose claims paying abilities, in the case of an insurance company, are rated in any of the three highest rating categories without reference to subcategories by a rating agency. For purposes of this definition, the term “financial services company” shall include any investment banking firm or any affiliate or division thereof which may be legally authorized to enter into the transactions described in this chapter pertaining, applicable or limited to a qualified financial institution.

“Rating agency.”

(1) The term includes the following:

- (i) Standard & Poor’s Corporation and any successor thereto.
- (ii) Moody’s Investors Service and any successor thereto.
- (iii) Fitch Investors Service, Inc., and any successor thereto.

(2) If the rating agencies cited in paragraph (1) shall no longer perform the functions of a securities rating service, the term shall mean any other nationally recognized rating service or services.

“Real estate-related matter.” A transaction or agreement which involves any fee, leasehold or other estate or interest in, over or under real property in which the authority has an interest or wishes to acquire an interest, including, but not limited to, structures, fixtures and other improvements and interests which by custom, usage or law pass with the conveyance of real property though not described in the contract of sale or instrument of conveyance. The term includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water and includes any contract, joint venture, management or brokerage agreement which is related directly or indirectly thereto.

“Transportation system.” All property, real and personal, useful for the transportation of passengers for hire, including, but not limited to, power plants, substations, terminals, garages, bridges, tunnels, subways, elevated lines, monorails, railroad motive power, trains, railroad passenger cars and equipment, belt conveyors, inclines, car barns, street cars, buses, rails, lines, poles, wires, stations and off-street parking facilities rights-of-way, as well as the franchises, rights and licenses therefor, including rights to provide group, party and paratransit services. The term shall not include a taxicab.

## SUBCHAPTER B AUTHORIZATION AND ORGANIZATION OF AUTHORITIES

Sec.

1711. Creation of metropolitan transportation authorities.
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1713. Appointment of board members.
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§ 1711. Creation of metropolitan transportation authorities.

(a) Creation and purpose.—There is hereby authorized the creation of a separate body corporate and politic in each metropolitan area, to be known as the transportation authority of that metropolitan area, extending to and including all of the territory in the metropolitan area. An authority shall in no way be deemed to be an instrumentality of any city or county or other municipality or engaged in the performance of a municipal function, but shall exercise the public powers of the Commonwealth as an agency and instrumentality thereof. An authority shall exist for the purpose of planning, acquiring, holding, constructing, improving, maintaining, operating, leasing, either as lessor or lessee, and otherwise functioning with respect to a transportation system in the metropolitan area and outside of such area, whether within or beyond the boundaries of this Commonwealth, to the extent necessary for the operation of an integrated transportation system and for the provision of all group and party services which can be provided by the existing transportation system or transportation systems subject to acquisition under this chapter. All services rendered by an authority outside the metropolitan area shall be pursuant to certificates of public convenience or other appropriate authorization issued to it by the Pennsylvania Public Utility Commission or other appropriate regulatory agency of the Federal Government or any state. Except as provided in subsection (c), an authority shall transact no business or otherwise become operative until and unless a majority of its board shall have been qualified in accordance with this subchapter.

(b) Certificate of incorporation.—

(1) The certification by the appointing power of each board member and the constitutional oath of office subscribed by each member shall be filed with the Department of State, and, except as provided in subsection (c), upon the receipt of initial certifications and respective oaths of a majority of the total number of board members appropriate to any

metropolitan area, the Secretary of the Commonwealth shall issue a certificate of incorporation. This certificate shall refer to that authority by the name which shall be designated by the board members.

(2) In any suit, action or proceeding involving or relating to the validity or enforcement of any contract or act of an authority, a copy of the certificate of incorporation, duly certified by the Department of State, shall be admissible in evidence and shall be conclusive proof of the legal establishment of the authority.

(c) Transition provisions.—

(1) Any authority established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities) shall be deemed, for all purposes, to be an authority created under this chapter, shall continue in effect under this chapter as an authority of the Commonwealth and shall exercise those powers, functions and duties and be governed by those provisions applicable to an authority created under this chapter. Such authority established under the former provisions of Article III of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15 shall be deemed to have satisfied the requirements of subsections (a) and (b) concerning the organization of an authority under this chapter. Nothing in this chapter shall be construed to alter or modify in any respect any contract or other obligation of such authority entered into prior to the effective date of this chapter.

(2) An authority created or existing under this chapter, including any authority established under the former provisions of Article III of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15, shall, without the necessity of action or assignment by it or any other person:

(i) continue in the rights and responsibilities of any authority existing under the former provisions of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15 for all purposes, including, but not limited to, receipt of all grants, gifts, appropriations, subsidies or other payments;

(ii) continue to be the owner of any real or personal property and enjoy and be subject to any and all rights and responsibilities appurtenant thereto of any authority existing under the former provisions of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15, including, but not limited to, all assets, property, real and personal, tangible and intangible, all easements and all evidences of ownership or other interest in part or in whole, and all records, and other evidences pertaining thereto; and

(iii) continue to be obligated with respect to all debt and other contractual obligations of any authority existing under the former



provisions of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15.

(3) It is hereby declared to be the intent of the General Assembly that an authority created or existing under this chapter, including any authority established under the former provisions of Article II of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15, and the members, officers, officials and employees of any of them, shall continue to enjoy sovereign and official immunity, as provided in 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver), and shall remain immune from suit except as provided by and subject to the provision of 42 Pa.C.S. §§ 8501 (relating to definitions) through 8528 (relating to limitations on damages).

§ 1712. Governing and policymaking body.

(a) Transportation board.—The governing and policymaking body of an authority shall be a board, to be known as the transportation board of the metropolitan area, consisting of members to be appointed as provided in section 1713 (relating to appointment of board members), who, except for the appointee of the Governor, must be residents of the metropolitan area. No board member shall be allowed any fees, perquisites or emoluments, reward or compensation for his services as a member or officer of an authority, but the board member shall be reimbursed for actual expenses incurred in the performance of his duties.

(b) Limit on exercise of powers.—The board shall not involve itself in the day-to-day administration of the authority's business. It shall limit its exercise of powers to such areas of discretion or policy as the functions and programs of the authority, the authority's operating and capital budgets, the authority's standard of services, utilization of technology, the organizational structure and, subject to the provisions of this chapter, the selection of and the establishment of salaries for personnel.

§ 1713. Appointment of board members.

(a) Appointment.—Except as provided in subsection (d) with respect to the continuation in office of members of the board of any authority established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities), at any time after the effective date of this chapter:

(1) The Governor may appoint as a member of the board one person who may be an ex officio appointee from among the various officials in this Commonwealth and whose term as a board member shall run concurrently with that of his Commonwealth position, if any, or the term of the appointing Governor, whichever is shorter.

(2) The Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives may each appoint one person to serve as a board member, whose term

shall be concurrent with the term and who shall serve at the pleasure of the appointing legislative leader.

(3) The county commissioners or the county council in each county and, in any county of the first class containing a city of the first class, the mayor, with the approval of the city council, may appoint two persons from each county to serve as board members.

(b) Successor.—At the expiration of the term of any board member, his successor shall be appointed by the same power who appointed that board member for a term of five years from the expiration date.

(c) Certification and oath of office.—The appointing powers shall certify their respective appointments to the Secretary of the Commonwealth. Within 30 days after certification of his appointment and before entering upon the duties of his office, each member of the board shall take and subscribe the constitutional oath of office and file it in the office of the Secretary of the Commonwealth.

(d) Transition provision.—With respect to the board of any authority established under the former provisions of Article III of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15, all members of the board of the authority shall be deemed to be members of the board of an authority created under this chapter and shall continue in office until their respective terms of office would have expired as provided for in the former provisions of the Pennsylvania Urban Mass Transportation Law or section 1517 (relating to appointment of board members) and shall exercise the powers, functions and duties of a board of an authority created under this chapter.

#### § 1714. Resignation and vacancies.

(a) Removal and vacancy.—Members of the board shall hold office until their respective successors have been appointed and have qualified. The appointing power may remove any member of the board appointed by that appointing power, but only in case of incompetency, neglect of duty or malfeasance in office. No member shall be thus removed except after having been given a copy of the charges against the member and an opportunity to be publicly heard at a place in the metropolitan area, in person or by counsel, in his own defense upon not less than ten days' written notice. In case of failure to qualify within the time required or of abandonment of his office or in case of death, conviction of a felony or removal from office, that office shall become vacant.

(b) Abandonment.—A member shall be deemed to have abandoned his office upon failure to attend any regular or special meeting of the board, without excuse approved by resolution of the board, for a period of four months or upon removal of his residence from the metropolitan area.

(c) Filling of vacancy.—Each vacancy shall be filled for the unexpired term by appointment in like manner and with like regard as to the place of residence of the appointee as in case of expiration of the term of a member of the board.

(d) Appeal.—A member removed for incompetency, neglect of duty or malfeasance in office shall have the right to appeal that removal to the court of common pleas of the county for which that member was appointed, but only on the ground of error of law or manifest and flagrant abuse of discretion.

§ 1715. Meetings, quorum, officers and records.

(a) Meetings.—Regular meetings of the board shall be held in the metropolitan area at least once in each calendar month except July or August, the time and place of the meetings to be fixed by the board. A majority of the board shall constitute a quorum for the transaction of business. All action of the board shall be by resolution, and the affirmative vote of a majority of all the members shall be necessary for the adoption of any resolution. No action by the board to which an express objection has been made, under this section, by a board member or members representing a county or counties having one-third or more of the population of the metropolitan area, as determined by the most recent decennial census, shall be carried unless supported at a subsequent regular meeting of the board by the votes of at least three-quarters of the membership of the board. In case of disagreement between members representing the same county, each member shall be deemed to represent one-half of the population of that county.

(b) Officers.—The board shall elect from among its members a chairman and a vice chairman, each of whom shall serve for a term of one year and until his successor shall have been elected and qualified and who shall perform those duties as the board shall, by resolution, determine.

(c) Public meetings and records.—

(1) The board shall be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, and the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act.

(2) Notwithstanding the provisions of section 4 of the Sunshine Act, one or more persons may participate in a meeting of the board or of any committee thereof by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, including, in the case of a meeting open to the public, all other persons present at the place of meeting designated by public notice. Participation by one or more members of the board in a meeting pursuant to this subsection shall constitute presence in person at the meeting.

§ 1716. Secretary, oath, bond.

The board shall appoint a secretary who shall not be a member of the board to hold office at the pleasure of the board and shall fix his duties and compensation. The secretary shall not be engaged in any other business or employment during his tenure of office as secretary of the board. Before entering upon the duties of the office of secretary, he shall take and subscribe the constitutional oath of office. Officers and employees of the authority and those members of the board as the board may determine shall execute

corporate surety bonds conditioned upon the faithful performance of their respective duties. A blanket form of surety bond may be used for this purpose if the board deems this procedure to be practical and prudent. The obligation of the sureties shall not extend to any loss sustained by the insolvency, failure or closing of any national or state bank, bank and trust company or trust company wherein funds of the authority have been deposited if the bank, bank and trust company or trust company has been approved by the board as a depository for these funds. The oaths of office and the surety bond or bonds shall be filed in the principal office of the authority.

§ 1717. Controller.

The board shall appoint a controller who shall not be a member of the board to hold office at the pleasure of the board and shall fix his compensation. The controller shall consult with, advise and assist the board on financial and accounting matters, including, but not limited to, the authority's system of internal controls, financial reports, current financial condition and such other financial and accounting matters which the board may deem appropriate. The controller shall submit an annual report of the authority's financial condition which shall be in addition to any other financial report required by this chapter to the board, the general manager and the Secretary of Transportation. The controller shall execute a corporate surety bond and, before entering upon the duties of his office, shall take and subscribe the constitutional oath of office.

§ 1718. Signatures.

(a) Facsimile signatures.—Whenever the business of the authority requires the affixing of the signature of any officer or employee of the authority, the use of a facsimile signature, when expressly authorized by resolution of the board, shall have the same force and effect as an original signature.

(b) Signatures of officers ceasing to hold office.—In case any officer whose signature appears upon any check, draft, bond, certificate or interest coupon issued under this chapter ceases to hold office before the delivery thereof to the payee or the purchaser of any bond or certificate, the officer's signature, nevertheless, shall be valid and sufficient for all purposes with the same effect as if he had remained in office until delivery thereof.

§ 1719. General manager.

The board shall appoint a general manager, who shall be the chief operations officer of the authority and who shall have demonstrated that he is competent and experienced in the area of transit management, and shall fix his compensation. The general manager shall have the power and duty to:

- (1) Manage the properties of the authority.
- (2) Attend to the day-to-day administration, fiscal management and operation of the authority's business.
- (3) Appoint such employees as he deems necessary to conduct the affairs of his office, subject to the provisions of this chapter.
- (4) Implement and enforce all resolutions, rules and regulations of the board.

(5) Submit to the board, according to a schedule established by it, periodic reports showing the overall state or condition of the transportation system according to established industry performance standards. These reports shall be considered public records.

(6) Implement policies established by the board.

§ 1720. Treasurer.

The general manager shall appoint a treasurer to hold office at his pleasure. In addition to the duties imposed on the treasurer by this chapter, the treasurer shall perform such other duties as the general manager shall prescribe. The treasurer shall execute a corporate surety bond and, before entering upon the duties of his office, shall take and subscribe the constitutional oath of office.

§ 1721. Counsel to the board.

The board shall appoint a counsel to the board, who shall be an attorney at law admitted to practice before the Supreme Court of Pennsylvania and who shall be appointed by the board to serve at its discretion. The board shall pay the counsel to the board reasonable compensation for services actually performed. The counsel to the board shall advise the board in all matters relating to its official duties and shall, notwithstanding any other provision of this chapter, approve all matters relating to bonds and indentures.

§ 1722. Legal division and general counsel.

(a) Legal division.—The general manager shall establish a legal division which shall be administered by a full-time general counsel, who shall be an attorney at law admitted to practice before the Supreme Court of Pennsylvania and who shall be appointed by the general manager to serve at his or her pleasure. The legal division, in addition to the general counsel, shall consist of those attorneys and other employees as the general counsel shall, from time to time, determine to be necessary and who shall be appointed by the general manager. Except as provided in section 1721 (relating to counsel to the board), the legal division shall administer the legal affairs of the authority, shall prosecute and defend, settle or compromise all suits or claims for and on behalf of the authority and shall advise the general manager in all matters relating to his or her official duties. The authority shall not be considered either an executive agency or an independent agency for the purpose of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, but shall possess the same status for such purpose as the Auditor General, the State Treasurer and the Pennsylvania Public Utility Commission, except that the provisions of section 204(b) and (f) of the Commonwealth Attorneys Act shall not apply to the authority and, notwithstanding the provisions of 42 Pa.C.S. § 8525 (relating to legal assistance), the authority through its counsel shall defend actions brought against the authority and its officers and employees when acting within the scope of their official duties.

(b) Other counsel.—The general counsel may, from time to time, with the approval of the general manager, retain such other legal counsel on such

terms and for such purposes as shall be deemed by the general manager to be necessary or in cases where the needs of the authority would be better served. Nothing in this section or in section 1721 shall be construed so as to limit the power of the legal or other officers of the counties and municipalities comprising the metropolitan area to act in behalf of the general manager in their official capacities when requested to do so by the general manager.

§ 1723. Other employees.

(a) Collective bargaining.—The board acting through the general manager shall have the right to bargain collectively and enter into agreements with labor organizations. The board acting through the general manager shall recognize and be bound by existing labor union agreements where they exist between labor unions and transportation companies that are acquired, purchased, condemned or leased by the board. It shall designate their duties and require bonds of those of them as the board may designate.

(b) Compensation.—The compensation of the general manager, counsel to the board, secretary and controller shall be fixed by the board. For all other officers, employees, attorneys, engineers, consultants and agents, the board shall establish salary scales. The general manager shall establish, within these salary scales, compensation levels based upon written appraisals of performance for all employees under his control. The secretary and the controller shall establish, within these salary scales, compensation levels based upon written appraisals of performance for all employees in their respective offices.

(c) Other offices or employment.—With the exception of the secretary, any of the officers and employees described in subsection (b) may be appointed, retained, hired or employed on a part-time basis and may be engaged in other business or professional activities. No salaried executive officer of the authority shall hold any other office in or be an employee of the Federal, State or any county or municipal government except an office or employment without compensation or an office in the military reserve or National Guard.

§ 1724. Personnel matters.

(a) Classification of position.—

(1) The general manager shall classify all the offices, positions and grades of regular employment required with reference to the duties and compensation fixed therefor and adopt rules governing appointments to any of such offices or positions on the basis of merit and efficiency.

(2) Paragraph (1) shall not apply to the chairman of the board, secretary, counsel to the board or controller.

(3) No discrimination shall be made in any appointment or promotion because of age, sex, race, creed, color, political or religious affiliations or disability. No officer or employee shall be discharged or demoted except for just cause.

(b) Change in work force.—The general manager may abolish any office or reduce the force of employees for lack of work or lack of funds, but, in so doing, the officer or employee with the shortest service record in the classification and grade to which the officer or employee belongs shall be first released from service and shall be reinstated in order of seniority when additional force of employees in that job classification and grade is required. No person shall be released from service under this subsection if the person can be transferred:

(1) to another job classification at a lower grade in which job classification the person had previously served, for which that person is qualified and in which the incumbent is junior in seniority; or

(2) to a vacancy in another job classification for which that person is qualified.

(c) Pension system.—There shall be established and maintained by the authority a pension and retirement system to provide for payments when due under such system or as modified from time to time by resolution of the board. For this purpose, both the board and the participating employees shall make such periodic payments to the established system as may be determined by resolution. The board may provide for participation by its employees in the Social Security program or, in lieu of Social Security payments required to be paid by private corporations engaged in similar activity, shall make payments into such established system at least equal in amount to the amount so required to be paid by such private corporations or shall make such other arrangements as will accomplish the same purpose. Provisions shall be made by the board for all officers and employees of the authority appointed under this chapter to become, subject to procedures adopted by resolution of the board, members and beneficiaries of the pensions and retirement system with uniform rights, privileges, obligations and status as to the class in which the officers and employees belong. Members and beneficiaries of any pension or retirement system established by a transportation system acquired by the authority shall continue to have rights, privileges, benefits, obligations and status with respect to the previously established system. To achieve the purposes set forth in this subsection, the board shall, by resolution, adopt appropriate procedures and from time to time shall obtain competent actuarial advice.

#### § 1725. Public hearings.

(a) Conduct.—All public hearings required by this chapter shall be conducted so as to insure that:

(1) Members of the public are afforded a reasonable opportunity to comment orally or in writing or both orally and in writing concerning actions the authority proposes to take.

(2) The site of the hearing is a convenient, accessible location.

(3) Members of the public are adequately informed at the outset regarding the purposes of the hearing and the matters on the agenda.

(4) Reasonable and legitimate questions from members of the public are answered.

(b) Decrease in service.—Whenever a decrease in service is proposed, a public hearing shall be conducted in accordance with this section in the area affected by the proposed decrease in service.

§ 1726. Citizen advisory committee.

(a) Establishment and composition.—There is hereby established a citizen advisory committee. The committee shall consist of:

(1) an even number of members of the general public not fewer than 14 and not greater than 24, the exact number to be determined by the general manager, who shall be appointed by the county commissioners or the county council, as the case may be, of all counties of the third class and second class A who are involved with any city of the first class in the operation of a transportation system and by the mayor of any such city of the first class from residents of their respective municipalities who are regular users of mass transportation service; and

(2) five members of the general public, one resident from each of the counties mentioned in paragraph (1) and one resident from the city mentioned in paragraph (1) who are regular users of mass transportation service, who shall be appointed by the general manager.

(b) Terms.—The composition of the committee shall reflect the proportionate distribution of total ridership among all counties of the third class and second class A who are involved with any city of the first class in the operation of a transportation system and any such city of the first class. The terms of the members shall be two years from the date of appointment or until a successor has been appointed, except that one-half of the members first appointed shall serve for terms of one year and the other one-half shall serve for terms of two years. No member shall serve more than three consecutive terms. The committee shall select from among its number a chairman, vice chairman and a secretary. A majority of the members of the committee plus one shall constitute a quorum.

(c) Subjects to be submitted.—Regardless of whether public hearings are required on the matters described in this subsection, the general manager shall submit to the committee proposals regarding the adoption or amendment of a comprehensive transportation plan, the annual operating budget, any capital budget, the facilities to be operated, the services to be available and the rates to be charged therefor or other matters of a similar nature prior to any final action relating to any of the foregoing. The committee may thoroughly consider the proposals and may prepare and transmit to the general manager and to any interested member of the public written comments concerning the proposals prior to the date when final action is to be taken.

(d) Nature of committee's comments.—Although the general manager shall give careful and due consideration to the committee's comments prior to the taking of any final action, the comments shall be considered only advisory in nature.



(e) Transition provision.—With respect to the citizen advisory committee established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Act, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities) that committee shall continue in effect and shall be deemed, for all purposes, to be a committee created under this section. This committee shall be deemed to have satisfied the requirements of subsections (a) and (b) concerning the establishment, functions and duties of a citizens advisory committee under this chapter. All members of the committee shall continue in office and shall exercise the powers, functions and duties of members of the committee until the expiration of their respective terms of office in effect on the effective date of this chapter.

§ 1727. Investigations and subpoenas.

(a) Procedure.—The board may investigate all means of transportation and the management thereof, the enforcement of its resolutions, rules and regulations and the action, conduct and efficiency of all officers, agents and employees of the authority. In the conduct of investigations, the board may hold public hearings on its own motion and shall do so on complaint or petition of any municipality in the metropolitan area. Each member of the board shall have power to administer oaths, and the secretary, by order of the board, shall issue subpoenas to secure the attendance and testimony of witnesses and the production of books and papers relevant to investigations and to any hearing before the board or any member thereof, or any officers' committee or employees' committee, appointed by the board to hear any complaint of an officer or employee who has been discharged or demoted.

(b) Enforcement.—Any court of record of this Commonwealth or any judge thereof, either in term time or vacation, upon application of the board or any member thereof may, in his discretion, compel the attendance of witnesses, the production of books and papers and giving of testimony before the board or before any member thereof or any officers' committee or employees' committee appointed by the board by attachment for contempt or otherwise in the same manner as the production of evidence may be compelled before the court.

§ 1728. Conflicts of interest.

Every member of the board and every employee of the authority shall be subject to the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act, and the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

SUBCHAPTER C  
POWERS AND DUTIES

Sec.

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§ 1741. General powers.

(a) Powers enumerated.—An authority shall have and may exercise all powers necessary or convenient for the carrying out of the purposes of this chapter, including the following rights, powers and duties:

- (1) To have perpetual existence.
- (2) To sue and be sued, implead and be impleaded, complain and defend in all courts, petition the Interstate Commerce Commission or any other Federal or State regulatory body or join in any proceeding before any such bodies or courts in any matter affecting the operation of any project of the authority.
- (3) To adopt and use and alter at will a corporate seal.
- (4) To establish a principal office within the county of the first class and such other office or offices as may be necessary for the carrying on of its duties.
- (5) To make and from time to time to amend and repeal bylaws, rules, regulations and resolutions.
- (6) To conduct examinations and investigations and to hear testimony and take proof under oath or affirmation at public or private hearings, as provided in this chapter, on any matter material to the public purposes set forth in this chapter.
- (7) To appoint officers, agents, employees and servants and to prescribe their duties and fix their compensation, subject, however, to specific provisions of this chapter. Members of the board, as well as officers and employees of the authority, shall not be liable personally on any obligations, including, but not limited to, bonds of the authority.
- (8) To enter into contracts of group insurance for the benefit of its employees or to continue any existing insurance and/or pension or retirement system and/or any other employee benefit arrangement covering employees of an acquired existing transportation system and/or to set up a retirement or pension fund or any other employee benefit arrangement for its employees.
- (9) To procure such insurance, letters of credit, liquidity facilities, guaranties and sureties containing such coverages, including, but not limited to, contracts insuring or guaranteeing the timely payment in full of

principal of and interest on bonds of the authority, or providing liquidity for purchase of bonds of the authority in such amounts, from such insurers, sureties, guarantors or other persons, as the authority may determine to be necessary or desirable for its purposes.

(10) To self-insure or otherwise provide for the insurance of any property or operations of the authority against any risks or hazards.

(11) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, as authorized by section 1761 (relating to management of funds).

(12) To acquire by purchase, gift or otherwise, hold, lease as lessee and use any franchise, right or property, real, personal or mixed, tangible or intangible, or any interest or right therein necessary, desirable or useful for carrying out the purposes of the authority; to sell, lease as lessor, transfer, dispose of or otherwise convey any franchise, right or property, real, personal or mixed, tangible or intangible, or any interest or right therein, at any time acquired by it; or to exchange the same for other property or rights which are useful for its purposes.

(13) To acquire by eminent domain any real or personal property, including improvements, fixtures and franchises of any kind whatever, for the public purposes set forth in this chapter in the manner provided in this chapter.

(14) To acquire by purchase, lease or otherwise and to construct, improve, maintain, repair and operate passenger transportation facilities and a transportation system or systems or portions thereof and to pay all costs thereof, including, but not limited to, the costs of all work and materials incidental thereto and all amounts necessary to place any project into operation.

(15) To fix, alter, charge and collect fares, rates, rentals and other charges for its facilities by zones or otherwise at reasonable rates to be determined exclusively by it, subject to appeal, as provided in this chapter for the purpose of providing for the payment of all expenses and obligations of the authority, including the acquisition, construction, improvement, repair, maintenance and operation of its facilities and properties, the maintenance and operation of a transportation system, the payment of the principal and interest on its obligations, and to comply fully with the terms and provisions of any agreements made with the purchasers of bonds or obligees of the authority. An authority shall determine by itself, exclusively, the facilities to be operated by it, the services to be available and the rates to be charged therefor. Public hearings shall be held prior to such determinations when changes are proposed which would increase or decrease fares, establish new routes, eliminate routes, change routes or make substantial changes in the level of service scheduled. However, public hearings need not be held for route changes, fares or level of scheduled service in the case of temporary changes not exceeding 90 days caused by emergencies; promotional fares

or services, or experimental services, adopted to increase revenue and ridership, subject to board resolution; or special events in which the authority participates as provided by board resolution. Notice of public hearings shall be published in two newspapers of general circulation and a publication specifically designed to reach minorities not fewer than 30 calendar days prior to such hearing. Any person aggrieved by any rate or service or change of service fixed by the authority may bring an appeal against the authority for the purpose of protesting against any such charge, service or change of service. The grounds for the suits shall be restricted to a manifest and flagrant abuse of discretion or an error of law; otherwise, all actions by the authority shall be final. Upon the finding of an error of law or a manifest and flagrant abuse of discretion, the court shall issue an order setting forth the abuse or error and returning the matter to the authority for such further action as shall be not inconsistent with the findings of the court. No appeal from the action of the authority or from the decision of the court of common pleas shall act as a supersedeas, except when taken by the authority or, in other cases, when specially granted after a finding that irreparable and extraordinary harm will result. The courts shall give priority to all appeals, and no bond shall be required of any party instituting such an appeal under the provisions of this section.

(16) To fix rates, fares and charges in such manner that they shall be at all times sufficient in the aggregate, and in conjunction with any grants from Federal or other sources and any other income available to the authority, to provide funds for the payment of all operating costs and expenses which shall be incurred by the authority, for the payment of the interest on and principal of all bonds payable from the revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority in connection with the issuance of bonds.

(17) To enter into agreements with the United States Postal Service or any successor organization for the transportation of mail and payment of compensation to the authority in lieu of fares for the transportation of letter carriers in uniform at all times. The board may provide free transportation for firefighters in uniform and police officers when in uniform or when not in uniform upon presentation of identification as police officers. The board may provide free transportation for employees of the authority when in uniform or upon presentation of identification as such employees, provide free transportation to dependents of employees of the authority upon presentation of identification as provided by the board and enter into reciprocal arrangements to provide free transportation to employees and dependents of employees of other transportation agencies.

(18) To borrow money from any person for the purpose of paying the costs of any project or in anticipation of the receipt of income of the

authority and to evidence the same; make and issue bonds of the authority; secure the payment of such bonds or any part thereof by pledge of or security interest, which may be a senior, parity or subordinated pledge or security interest, in all or any of its revenues, rentals, receipts and contract rights and all or any of its moveable equipment and other tangible personal property; to secure the payment of such bonds or any part thereof by a mortgage lien on real property of the authority or any interest therein, provided, however, that no such lien shall extend to real property of the authority comprising rights of way, easements or any other interests in real property used or useful for passage of transportation vehicles or necessary for the safe and sound routing or control of transportation vehicles; issue bonds on an unsecured basis; issue bonds on a limited recourse or nonrecourse basis; issue bonds under a master trust indenture; make agreements with the purchasers or holders of bonds or with other obligees of the authority in connection with any bonds, whether issued or to be issued, as the authority shall deem advisable, which agreements shall constitute contracts with the purchasers or obligees of the authority; obtain credit enhancement or liquidity facilities in connection with any bonds as the authority shall determine to be advantageous; and, in general, provide for the security for the bonds and the rights of the obligees of the authority.

(19) To accept grants and to enter into contracts, leases, subleases, licenses or other transactions with any person on such terms and for such purposes as the authority shall deem proper.

(20) To negotiate and enter into arrangements, including futures contracts, forward contracts and cap, collar, corridor, floor or ceiling agreements, with respect to essential supplies and commodities for an authority for the purpose of reducing the risk to the authority of price fluctuations for the supplies and commodities.

(21) To make and execute all contracts and other instruments necessary or convenient to the exercise of the powers of the authority, and any contract or instrument when signed by the chairman or vice chairman and secretary or assistant secretary or treasurer or assistant treasurer of the authority shall be held to have been properly executed for and on its behalf. Without limiting the generality of the foregoing, the authority is also authorized to enter into contracts for the purchase, lease, operation or management of transportation facilities within or without the metropolitan area or within or without this Commonwealth. Whenever the facilities are located outside the metropolitan area, they shall be subject to the jurisdiction of the appropriate regulatory agencies.

(22) To enter into contracts with government agencies and Federal agencies on such terms as the authority shall deem proper for the use of any facility or other real or personal property of the authority, and fixing the amount to be paid therefor.

(23) To agree with the constituent municipalities in which it operates for the lease of present and future municipal property, where such a lease would be advantageous to the authority in the financing or the operation of improved passenger transportation service.

(24) To explore alternative means of raising revenue or reducing expenses, including, but not limited to, real estate leases and rentals, equipment leases and rentals, contracting of services, the solicitation of competitive bids and the awarding of contracts to the highest responsive, responsible bidder for both interior and exterior advertising on all authority equipment on which the public is charged a fare for riding. However, on rail passenger units only bids for interior advertising shall be solicited. Nothing in this chapter or in any other law of this Commonwealth shall preclude the negotiation and execution of contracts with respect to real estate-related matters in accordance with and subject solely to the provisions of this paragraph. The general manager may recommend in writing that the board make a finding of special opportunity with respect to a real estate-related matter. The board shall consider the general manager's recommendation at a public meeting. The notice given in accordance with the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act, with respect to such meeting shall state that the board will consider making a finding of special opportunity at such meeting and shall describe the nature of the proposed finding of special opportunity. Any finding of special opportunity shall be approved by the board in accordance with the provisions of section 1715 (relating to meetings, quorum, officers and records). The board shall adopt, by resolution, a process under which the authority shall enter into contracts needed to implement a finding of special opportunity. The process adopted by the board shall provide a method of prequalifying prospective contracting parties, where appropriate; for the reasonable notification of prospective contracting parties of the issuance of requests for proposals and the reasonable opportunity for qualified prospective contracting parties to submit proposals; for review of proposals from qualified prospective contracting parties; for the negotiation of contracts with one or more prospective contracting parties; for award of contracts on the basis of evaluation of the characteristics of the proposals; and for giving such weight to the various characteristics of any proposal as the board shall determine is in the best interest of the authority. The characteristics by which proposals may be evaluated under a finding of special opportunity may include the likely complexity of the transaction; the amount of investment any selected contracting party will be required to make or offers to make in the real estate-related matter; the experience and prior success of the proposed contracting party in other similar dealings with the same type of real estate-related matters or with the authority; the quality, feasibility and potential for economic success of the proposal; any cost or potential return to the authority; the economic reliability and financial

viability of the proposed contracting party; the compatibility of the proposal with the authority's basic function as a public transportation provider; the date by which the proposed contracting party agrees to complete the real estate-related matter; and other factors which the board shall specify. The authority shall make available a copy of the process adopted by the board to any person requesting a copy of the process. The general manager may make a written recommendation to the board concerning the award of a contract under a finding of special opportunity. The general manager's recommendation shall include the identity of the prospective contracting party or parties, the purpose of the contract, the substance of the finding of special opportunity, the substance and term of the proposed contract, the identities of any other prospective contracting parties who submitted proposals and the criteria upon which the general manager's recommendation was made and the reasons for selecting the prospective contracting party. Upon the written recommendation of the general manager, the board may award contracts under this paragraph after approving the awarding of the contract by a resolution adopted at a public meeting. The notice given in accordance with the Sunshine Act with respect to such meeting shall state that the board will consider awarding a contract under a finding of special opportunity at such meeting and shall describe the subject matter of such proposed contract. The authority shall by April 15 of each year submit a report to the department. The report shall detail the actions of the authority in exploring alternate means of raising revenue and reducing expenses. The department shall review the report and issue its findings and recommendations to the Appropriations Committee and the Transportation Committee of the Senate and the Appropriations Committee and the Transportation Committee of the House of Representatives no later than 30 days after receipt of such report for review and consideration of future funding by such committees. Where any alternate means have been rejected, the authority shall demonstrate that the feasibility and cost-effectiveness of that alternate means have been considered. As used in this paragraph, "finding of special opportunity" shall mean a written determination by the board that exclusion of a real estate-related matter from bidding procedures, as provided in this chapter or any other law, will be in the best interest of the authority and will be compatible with the authority's basic function as a public transportation provider, considering the nature of the real estate-related matter with respect to which the authority proposes to contract. Any finding of special opportunity shall include the basis on which the finding of special opportunity is being made.

(25) To lease property or contract for service, including managerial and operating service, whenever it can more efficiently and effectively serve the public by so doing, rather than conducting its own operations with its own property.

(26) To have the right to use any public road, street, way, highway, bridge or tunnel for the operation of a transportation system within the metropolitan area. In all cases involving the facilities of a railroad, any operations of which extend beyond the metropolitan area, the exercise of this right by the authority shall be subject to the jurisdiction of the Pennsylvania Public Utility Commission under Title 66 (relating to public utilities) only to the extent that the operations extend beyond the metropolitan area.

(27) To act as agent of any government agency or any Federal agency for the public purposes set forth in this chapter.

(28) To make available to any government agency the recommendations of the authority affecting any area in the authority's field of operation or property therein, which it may deem likely to promote the public health, morals, safety and welfare.

(29) To form plans for the improvement of mass transportation and the operation of a transportation system in order to promote the economic development of the metropolitan area in which the transportation authority operates, to make recommendations concerning mass transportation facilities which the authority does not own or operate, to make recommendations concerning throughways and arterial highway connections to the department and to other appropriate governmental bodies and otherwise to cooperate with all such governmental bodies. The authority shall give advance notice to the department of any plans which it may have for the occupation or use of any part of any State highway.

(30) To rehabilitate, reconstruct and extend as possible all portions of any transportation system acquired by the authority and to maintain at all times a fast, reliable and economical transportation system suitable and adapted to the needs of the municipalities served by the authority and for safe, comfortable and convenient service. To that end, the board shall make every effort to utilize high-speed rights-of-way, private or otherwise, to the maximum extent practicable to avoid air pollution by its vehicles, to abandon no physical property which the authority has determined retains continued usefulness to the authority and to extend its rail and highway services into areas which have sufficient need for them to economically or strategically justify such extension.

(31) To adopt, consistent with the policies of this chapter, and from time to time amend a comprehensive transportation plan. A public hearing shall be conducted prior to adoption or amendment. Notice of the public hearing shall be published in two newspapers of general circulation and a publication specifically designed to reach minorities not fewer than 30 days prior to the hearing.

(32) To do all acts and things necessary for the promotion of its business and the general welfare of the authority to carry out the powers granted to it by this chapter or any other statute. Notwithstanding any



other provision of law, the board shall adopt procedures and practices to implement the provisions of this chapter by resolution of the board.

(b) Public highways.—Private rights and property in the beds of existing public highways vacated in order to facilitate the purposes of the authority shall not be deemed destroyed or ousted by reason of the vacation, but shall be acquired or relocated by the authority in the same manner as other property.

(c) Certain powers denied.—The authority shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth or any other government agency, nor shall any of the authority's obligations be deemed to be obligations of the Commonwealth or of any other government agency, nor shall the Commonwealth or any government agency be liable for the payment of principal or interest on such obligations.

(d) No power to levy taxes.—The authority shall not have power to levy taxes for any purpose whatsoever.

§ 1742. Power to acquire property.

(a) General rule.—

(1) The authority shall have power to acquire by purchase, condemnation, lease, gift or otherwise all or any part of the property of any public utility operating a transportation system within the metropolitan area, including, but not limited to, the plant, equipment, property rights in property reserve funds, employees' pension or retirement funds, special funds, franchises, licenses, patents, permits, operating rights and paper documents and records, which property shall be located within the metropolitan area and shall be appropriate for the purposes for which the authority is established, as well as all or any part of the right-of-way, equipment, fixed facilities and other property of any kind of any utility, extending beyond the boundaries of the metropolitan area and forming or capable of forming part of an integrated suburban rapid transit or rail transportation facility, connecting with rapid transit or electric railway lines of the authority in superhighways or elsewhere. No interest in the right-of-way of a railroad company the operations of which extend beyond the metropolitan area shall be acquired or occupied under the power of eminent domain under this section or any other section without the consent of the railroad.

(2) Such properties, upon acquisition by or lease to the authority, shall become and be operated as part of the transportation system of the authority, and the authority shall have all powers in connection with such properties and such operations as are conferred by this chapter.

(3) The authority shall also have the power to enter into agreements to operate any lines located or extending beyond the boundaries of the metropolitan area, such agreements to be subject to all other provisions of this chapter. The authority shall have power to lease or purchase any municipally owned local transportation subways or other municipally

owned local transportation facilities for operation and maintenance by the authority.

(b) Condemnation procedure.—

(1) Whenever the authority shall condemn all or substantially all of the property of a transportation system, it may elect to commence condemnation proceedings without immediate passage of title by inserting a provision to that effect in the declaration of taking. In that event, the provisions of section 402 of the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code, shall not apply, and the title shall not pass to the authority and the authority shall not be entitled to possession until payment to the condemnee or into court of the amount of the just compensation payable for the property taken, determined as of the date of filing of the declaration of taking, as finally determined in accordance with the provisions of this article, provided that such payment occurs within one year of the final determination.

(2) From and after the filing of the declaration of taking until the payment to the condemnee of just compensation for the condemned property, the authority shall have the right to petition the court having jurisdiction of the proceedings to prevent waste, substantial disposition or any transaction with respect to the condemned property other than in the ordinary course of business without obtaining the prior written consent of the authority. The condemnee shall have no right to tender possession of the property or otherwise to demand payment of any compensation prior to the passage of title.

§ 1743. Power to contract with public utilities.

The authority shall have power to enter into agreements with any public utility operating a railroad or any other transportation facility, either within or without the metropolitan area, for the joint use of any property of the authority or public utility or the establishment of through routes, joint fares and transfer of passengers. The authority shall have power to enter into agreements with any public utility, either within or without the metropolitan area, which in the judgment of the authority are necessary and convenient for carrying out the purposes of this chapter.

§ 1744. Power of eminent domain.

(a) Utility structures.—

(1) The authority shall have power, subject to relevant provisions of section 1741(a)(26) (relating to general powers), to require persons or corporations owning or operating public utility structures and appliances in, upon, under, over, across or along the public roads, streets or other public ways in which the authority has the right to own, construct, operate or maintain transportation facilities to remove the public utility structures and appliances from their locations. If any person or corporation owning or operating public utility structures and appliances fails or refuses to remove or relocate them, the authority may remove or relocate them. The authority shall provide the new location which the structures or appliances

as relocated shall occupy, and to that end 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 such purpose if the new location shall not be in, on or above a highway, road or street. The exact new location shall be chosen by agreement of the authority and the utility. Upon the completion of the relocation, the authority shall reimburse the public utility for the cost of relocation which shall be the entire amount paid by the utility properly attributable to the relocation of the structure or appliance after deducting the cost of any increase in the service capacity of the new structure or appliance and any salvage value derived from the old structure or appliance.

(2) If an issue shall arise between the authority and the public utility as to the amount of the cost of relocation or the new location, either party may institute a proceeding by complaint before the Pennsylvania Public Utility Commission, which is hereby given exclusive jurisdiction to hear and determine the issue. Appeal from the order of the commission in any proceeding may be taken in the same manner as is prescribed by law for appeals from other orders of the commission.

(b) Eminent domain.—

(1) The authority shall have the right of eminent domain which may be exercised, either within or without the metropolitan area, to acquire private property and property devoted to any public use which is necessary for the purposes of the authority, except property of a public utility operating transportation facilities extending beyond the boundaries of the metropolitan area.

(2) The authority shall have the right of eminent domain to acquire property of any railroad which property is not used for or in connection with the transportation of persons or property and to acquire rights and easements across, under or over the right-of-way of such railroad whenever the authority shall acquire the private right-of-way or other property of a public utility used or useful in its service to the public.

(3) It shall, before requiring the removal of the existing structures and appliances, provide a new location for the structures and appliances and, upon the completion of relocation, reimburse the public utility for the cost thereof in the manner provided in subsection (a).

(c) Title.—Title to any property acquired by an authority through eminent domain shall be an absolute ownership or fee simple title unless a lesser title shall be designated specifically in the eminent domain proceedings.

(d) Public utilities.—Real and personal property of any kind whatever belonging to a public utility corporation providing transportation or transportation-related services may be acquired without the approval of the Pennsylvania Public Utility Commission. In all cases involving the facilities of a railroad, any operations of which extend beyond the metropolitan area, the exercise of the power of the authority under this subsection shall be

subject to the jurisdiction of that commission under Title 66 (relating to public utilities).

(e) Certain property exempt.—No property owned or used by the United States, the Commonwealth, any political subdivision thereof or any body politic and corporate organized as an authority under any law of this Commonwealth or by any agency of any of them nor property used for burial purposes or places of public worship shall be taken under the right of eminent domain without the consent of the owner or user thereof.

(f) Negotiation.—Before exercising the power of eminent domain, reasonable efforts shall be made by the authority to achieve the desired result through negotiation.

§ 1745. Use of ways occupied by passenger utilities.

The authority shall not have the right to use any street or public way occupied prior to January 15, 1964, by a public utility engaged in local passenger transportation for a competing purpose without the agreement of the public utility.

§ 1746. Transfer of records by Pennsylvania Public Utility Commission.

In case the authority acquires the plant, equipment, property and rights in property of any public utility used or useful in the operation of a transportation system, the Pennsylvania Public Utility Commission shall transfer and deliver to the board, upon its demand, in writing all books, papers and records in control of the commission affecting the public utility exclusively.

§ 1747. Acquisition of equipment.

(a) General rule.—The authority shall have power to purchase or otherwise acquire the ownership or use of or access to equipment, such as cars, trolley buses, street cars, buses, monorails, railroad motive power, trains, railroad passenger cars and equipment, subway passenger cars and equipment, elevated passenger or passenger and rail rolling stock, self-propelled and gallery cars, locomotives, rails, lines, poles and wires, as well as any equipment necessary for the improvement of or overhaul of any of the foregoing, and any other equipment which, in the judgment of the authority, may be useful in the operation of a transportation system. The authority shall have the power to execute agreements, leases and equipment trust certificates in a form satisfactory to the authority to effect the purchase or acquisition and may dispose of such equipment trust certificates, provided that the certificates shall be offered for sale in a manner similar to that provided for the sale of bonds in this chapter. All money required to be paid by the authority under the provisions of the agreements, leases and equipment trust certificates shall be payable solely from the revenue or income to be derived from the transportation system and from grants and loans as provided elsewhere in this chapter. Payment for the equipment or rentals therefor may be made in installments and the deferred installments may be evidenced by equipment trust certificates payable solely from such revenue, income, grants

or loans and title to the equipment shall not vest in the authority until the equipment trust certificates are paid.

(b) Trustee.—The agreement to purchase may direct the vendor to sell and assign the equipment to a bank, bank and trust company or trust company duly authorized to transact business in this Commonwealth as trustee for the benefit and security of the equipment trust certificates and may direct the trustee to deliver the equipment to one or more designated officers of the authority and may authorize the trustee simultaneously therewith to execute and deliver a lease of the equipment to the authority.

(c) Authorization and acknowledgment.—The agreements and leases shall be duly acknowledged before some person authorized by law to take acknowledgments of deeds and in the form required for acknowledgments of deeds, and such agreements, leases and equipment trust certificates shall be authorized by resolution of the board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust certificates from the revenue or income to be derived from the transportation system.

(d) Provisions of agreements.—The covenants, conditions and provisions of the agreements, leases and equipment trust certificates shall not conflict with any of the provisions of any trust indenture securing the payment of bonds of the authority.

(e) Filing.—An executed copy of each agreement and lease shall be filed in the Office of the Secretary of the Commonwealth who shall be entitled to receive \$1 for each copy filed. This filing shall constitute notice to any subsequent judgment creditor or any subsequent purchaser. Each vehicle so purchased and leased shall have the name of the owner and lessor plainly marked upon both sides thereof, followed by the words "Owner and Lessor." § 1748. Transfers of facilities or things of value to any authority.

Any person may and is hereby authorized to sell, lease, lend, grant, convey, transfer or pay over to any authority, with or without consideration, any project or any part or parts thereof, or any interest in real or personal property or any funds available for building construction or improvement purposes, including the proceeds of bonds previously or hereafter issued for building construction or improvement purposes, or any money or thing of value, including services, which may be used by the authority in the construction, acquisition, improvement, maintenance or operation of any project or for any other of its corporate purposes, any other law to the contrary notwithstanding.

§ 1749. Compacts to finance operations and particular projects.

(a) General rule.—The counties and municipalities in any metropolitan area shall enter into a compact or compacts among themselves and/or with the authority to provide for meeting the authority's capital or operating budget by appropriations, annual or otherwise, of such sums and in such proportions as may be agreed upon in the compact to be paid by each signatory party thereto. The obligation incurred thereby shall be for the term

as set forth in the compact without regard to the provisions of any law, ordinance or regulation to the contrary and shall constitute a commitment and obligation, binding and absolute, on the part of each signatory party to appropriate and pay over the necessary funds in accordance therewith. The operating budget shall include all sums of money necessary for the formation and organization of any authority and all items of operating expenses in connection with the authority, as well as necessary funds for planning and research appropriate and consistent with the purposes of this chapter and any compact entered into under this chapter.

(b) Financing of particular projects.—A compact may also provide for the financing of a particular mass transportation project in such manner as shall be provided for in the compact.

(c) Commitment of party.—Whenever a party signatory to a compact thereby expresses its approval of the budget for financing a particular project, this shall then constitute a commitment and obligation, binding and absolute, on the part of the party signatory to appropriate the necessary funds in accordance therewith.

(d) Commitment of county or municipality.—No commitment or obligation involving the payment of moneys to or on behalf of the authority shall exist in any instance on the part of any county or other municipality within the metropolitan area unless and until the commitment or obligation shall first have been expressly and lawfully undertaken and assumed by the county or other municipality.

§ 1750. Contracts, procurement and sale of property.

(a) Competitive bids.—Except in the purchase of unique articles or articles which, for any other reason, cannot be obtained in the open market and except as provided in section 1741 (relating to general powers) and as provided in this chapter, competitive bids shall be secured before any purchase or sale, by contract or otherwise, is made or before any contract is awarded for construction, alterations, supplies, equipment, repairs or maintenance or for rendering any services to the authority other than professional services. Purchases shall be made from or the contract shall be awarded to the lowest responsive, responsible bidder. Sales shall be made to the highest responsive, responsible bidder. No purchase of any unique article or other articles which cannot be obtained in the open market shall be made without express approval of the board where the amount involved is in excess of \$25,000. The authority shall not be subject to the act of November 26, 1978 (P.L.1309, No.317), referred to as the Public Works Contract Regulation Law. Nothing in this section or any other law of this Commonwealth shall require the authority to competitively bid architectural design, engineering, construction management or other professional services required by the authority.

(b) Procedure.—All purchases and sales in excess of \$25,000 shall be awarded after advertising in a local newspaper of general circulation in the metropolitan area at least two weeks prior to the bid opening. Bids shall be

publicly opened and read aloud at a date, time and place designated in the invitation to bid. Invitations to bid shall be sent at least one week prior to the bid opening to at least three potential bidders who are qualified technically and financially to submit bids, or, in lieu thereof, a memorandum shall be kept on file showing that less than three potential bidders so qualified exist in the market area within which it is practicable to obtain bids.

(c) Qualified vendors.—Written price quotations from at least three qualified and responsible vendors shall be solicited for all purchases and sales under \$25,000 and over \$10,000, or, in lieu thereof, a memorandum approved by the general manager shall be kept on file showing that less than three vendors so qualified exist in the market area within which it is practicable to obtain quotations, except as provided in this chapter.

(d) Small purchases.—Purchases or sales under \$10,000 may be negotiated with or without competitive bidding under sound procurement procedures as promulgated and established by the general manager.

(e) Waiver.—Competitive bidding requirements may be waived if it is determined by the general manager, or in such other manner as the board may provide, that an emergency directly and immediately affecting customer service or public health, safety or welfare requires immediate delivery of supplies, materials, equipment or services. A record of circumstances explaining the emergency shall be submitted to the board at its next regular meeting and thereafter kept on file.

(f) Sale or lease of real property.—Contracts for the sale or lease of real property owned by the authority shall be awarded after competitive bidding as shown in subsection (b), except as provided in section 1741(a)(22) where the contract is entered into with the Commonwealth or any government agency or with the United States government or any agency or instrumentality thereof or as provided in section 1741(a)(24).

(g) Property management contracts.—Contracts for the management of authority-owned property, such as bus routes or subway systems, may be negotiated and awarded by an affirmative vote of one more than a majority of all members of the board.

(h) Avoidance prohibited.—Requirements shall not be split into parts for the purpose of avoiding the provisions of this section.

(i) Rejection of bids.—The authority shall have the right to reject any or all bids or parts of any or all bids, whenever, in the opinion of the board, rejection is necessary for the protection of the interests of the authority. In every case, a record shall be made setting forth the reason for the rejection, which record shall thereafter be kept on file.

(j) Rules and regulations.—The board may by resolution adopt policies to effectuate the provisions of this section.

(k) Concessions.—All concessions granted by the authority for the sale of products or the rendition of services for a consideration on authority property shall be awarded only under written specifications after competitive bidding and to the highest responsive, responsible bidder in a manner similar

to that required by subsection (b) or (c) as appropriate. This requirement for competitive bidding shall not apply to any concession which has been granted by a transportation system acquired by the authority and which by the terms of the agreement granting it will terminate within one year from date of the acquisition of the transportation system by the authority nor to any concession involving the estimated receipt by the authority of less than \$10,000 over the period for which the concession is granted.

§ 1751. Fiscal provisions.

(a) Fiscal year and budget.—The board shall establish a fiscal year for operations and a fiscal year for capital programs. At least 90 days prior to the beginning of the first full fiscal year after the creation of the authority and annually thereafter, the board shall cause to be prepared and submitted to it a tentative operating budget and a tentative capital budget for the ensuing fiscal year. The tentative budgets shall be considered by the board and, subject to any revision and amendments as may be determined, shall be adopted prior to the first day of the ensuing fiscal year as the budgets for that year. The board shall establish such rules as are necessary for proper observance of the budgets. Simultaneously with the adoption of the capital budget, the board shall adopt a tentative capital program covering the ensuing six years.

(b) Procedure.—A public hearing shall be conducted prior to the adoption of the final operating budget and tentative capital program. Notice of the public hearing shall be published in two newspapers of general circulation and a publication specifically designed to reach minorities not fewer than 30 days prior to the hearing.

§ 1752. Financial statements and audit.

(a) Statement.—As soon after the end of each fiscal year as is feasible, the board shall cause to be prepared and printed a report and financial statement of the authority's operations for the previous year and of its assets and liabilities prepared in accordance with generally accepted accounting principles. A reasonably sufficient number of copies of the report shall be printed for distribution to persons interested, upon request. A copy of the report shall be filed with the Secretary of the Commonwealth, the county clerk of each county in the metropolitan area and the clerk of each municipality which has granted rights to the authority by ordinance, and a copy of the report shall be addressed to and mailed to the mayor and city council or the governing body of the municipality. The board from time to time shall mail, to the persons and offices specified, copies of the interim financial reports as may be prepared by the authority, copies of all bylaws, rules and regulations and amendments thereto and copies of the annual financial budgets.

(b) Audit.—The board shall appoint in due time each year a firm of independent certified public accountants as auditors who shall examine the books, records and accounts, operations and assets and liabilities of the authority for the purpose of auditing and reporting upon its financial



statements for such year. The auditors shall audit the books, records, accounts, operations and assets and liabilities of the authority in accordance with generally accepted auditing standards. The report of the auditors shall be appended to the financial statement.

§ 1753. Aid from Federal Government.

In addition to the powers conferred upon any authority by other provisions of this chapter, the authority is empowered to borrow or accept money or accept grants or other financial assistance from any Federal agency for or in aid of the authority's operations. It is the purpose and intent of this chapter to authorize the authority, and the authority is so authorized, to do any and all things necessary or desirable to secure the financial aid or cooperation of any Federal agency in any of the authority's operations. These things may include, without limiting the generality of the foregoing, the power to change or revise rates, fares and charges, to make relocation payments to families, businesses and nonprofit organizations, to provide an areawide transportation plan or program for the development of a comprehensive and coordinated mass transportation system for the metropolitan area, to carry out research, development and demonstration projects and to provide a share of the cost of any project and all as may be required by any Federal law or by the requirements of any Federal agency authorized to administer any Federal program of aid to any mass transportation program.

SUBCHAPTER D  
FUNDS AND BONDS OF AUTHORITIES

Sec.

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§ 1761. Management of funds.

(a) General rule.—All funds of an authority received from any source shall be delivered to the treasurer of the authority or to such other agent of the authority as the board may designate. The funds shall be promptly deposited in the name of the authority in a bank or banks, bank and trust company or bank and trust companies, trust company or trust companies in

this Commonwealth chosen by the authority. The moneys in the account or accounts may be withdrawn or paid out only by check or draft upon the bank, bank and trust company or trust company, signed by the treasurer or other designated agent of the authority on warrant of the treasurer of the authority and countersigned by the chairman of the board or by such persons as the board may authorize. Moneys in the account or accounts may be withdrawn or paid out by electronic funds transfer on instructions signed and countersigned in the manner provided for checks or drafts. The board may designate any of its members or any officer or employee of the authority to affix the signature of the chairman to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than \$100,000. The general manager may designate any officer or employee of the authority to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than \$100,000.

(b) Management of funds.—

(1) All bank, bank and trust company or trust company balances of the authority, to the extent the same are not insured, shall be continuously secured by a pledge of direct obligations of the United States, of the Commonwealth or of any municipality or municipalities in the metropolitan area having an aggregate market value exclusive of accrued interest at all times at least equal to the balance on deposit in such bank, bank and trust company or trust company. The securities shall either be deposited with the treasurer of the authority or be held by a trustee or agent satisfactory to the authority. All depository institutions are authorized to give security for the deposits.

(2) Subject to the provisions of any agreements with obligees of the authority, all funds of the authority, including, but not limited to, the proceeds of bonds that are not required for immediate use may be invested by the board consistent with sound business practice. The board shall provide for an investment program subject to restrictions contained in this chapter and in any other applicable statute and any resolutions on this subject adopted by the board.

(c) Authorized investments.—The authorized types of investments for authority funds shall be any of the following:

(1) Government obligations.

(2) Debt obligations issued by any of the following Federal agencies or such other like Federal agencies which may be designated by the board: Bank for Cooperatives, Federal Farm Credit Banks, Federal Financing Bank, Federal Home Loan Bank System, Federal National Mortgage Association, Export-Import Bank of the United States, Farmers Home Administration, Resolution Funding Corporation, Small Business Administration, Student Loan Marketing Association, Inter-American Development Bank, International Bank for Reconstruction and

Development, Federal Land Banks or Government National Mortgage Association, and their predecessor or successor agencies.

(3) Short-term or long-term debt obligations of any state or political subdivision thereof or any agency or instrumentality of such a state or political subdivision or of any municipal corporation, provided that the obligations are rated by a rating agency in any of the three highest rating categories (without reference to subcategories) assigned by the rating agency.

(4) Rights to receive the principal of or the interest on obligations of states, political subdivisions, agencies or instrumentalities meeting the requirements set forth in paragraphs (2) and (3), whether through direct ownership as evidenced by physical possession of the obligations or unmatured interest coupons or by registration as to ownership on the books of the issuer or its duly authorized paying agent or transfer agent or through the purchase of certificates or other instruments evidencing an undivided ownership interest in payments of the principal of or interest on the obligations.

(5) Negotiable and nonnegotiable certificates of deposit, time deposits or other similar banking arrangements which are issued by banks, bank and trust companies, trust companies or savings and loan associations, provided that, unless issued by a qualified financial institution, any such certificate, deposit or other arrangement shall be continuously secured as to principal in the manner and to the extent provided in subsection (d).

(6) Repurchase agreements for investment securities described in paragraph (1) or (2) with a qualified financial institution or with dealers in government bonds which report to, trade with and are recognized as primary dealers by a Federal Reserve Bank and are members of the Securities Investors Protection Corporation, provided that the repurchase price payable under any agreement shall be continuously secured in the manner and to the extent provided in subsection (d).

(7) Investment agreements with qualified financial institutions.

(8) Commercial paper rated in the highest rating category, without reference to subcategories, by a rating agency.

(9) Shares or certificates in any short-term investment fund rated in the highest rating category (without reference to subcategories) by a rating agency, which short-term investment fund invests solely in obligations described in paragraphs (1) and (2).

(10) Debt obligations of any foreign government or political subdivision thereof or any agency or instrumentality of foreign government or political subdivision, provided that the obligations are rated by a rating agency, without reference to subcategories, in the highest rating category assigned by the rating agency.

(11) Such other investments which at the time of the acquisition thereof shall be listed as permissible investments for trust funds in an

indenture or resolution with respect to indebtedness which is incurred under this chapter.

(d) Security for investment securities.—Any security required to be maintained as collateral for investment securities in the form of certificates of deposit, time deposits, other similar banking arrangements and repurchase agreements described in subsection (c)(5) and (6) shall be subject to the following requirements:

(1) The collateral shall be in the form of obligations described in subsection (c)(1) and (2), except that the security for certificates of deposit, time deposits or other similar banking arrangements may include other marketable securities which are eligible as security for trust funds under applicable regulations of the Comptroller of the Currency of the United States of America or under applicable state laws and regulations.

(2) The collateral shall have an aggregate market value, calculated not less frequently than monthly, at least equal to the principal amount (less any portion insured by the Federal Deposit Insurance Corporation or any comparable insurance corporation chartered by the United States of America) or the repurchase price secured thereby, as the case may be. The instruments governing the issuance of and security for the Investment Securities shall designate the person responsible for making the foregoing calculations.

(3) The authority shall have a perfected security interest in the collateral securing certificates of deposit, time deposits or other similar banking arrangements, and the collateral shall be held free and clear of the claims of third parties. The collateral shall be deposited with the authority, with a Federal Reserve Bank for the account of the authority or with a bank, bank and trust company or trust company (other than the obligor) which is acting solely as agent for the authority and has a combined net capital and surplus equal to at least \$100,000,000.

(4) Collateral for repurchase agreements shall be held free and clear of the claims of third parties by the authority, or by a Federal Reserve Bank for the account of the authority, or by a bank, bank and trust company or trust company which is acting solely as agent for the authority and has a combined net capital and surplus at least equal to \$100,000,000. A perfected first priority security interest for the benefit of the authority shall be created in the collateral under Title 13 (relating to commercial code) or book entry procedures prescribed by applicable Federal regulations.

#### § 1762. Special funds.

An authority, under resolutions adopted from time to time by the board, may establish and create such special funds as may be found desirable by the board and, in and by such resolutions, may provide for payments into all special funds from specified sources with such preferences and priorities as may be deemed advisable and may provide for the custody, disbursement and application of any moneys in any such special funds consistent with the

provisions of this subchapter and consistent with generally accepted accounting principles.

§ 1763. Bonds.

(a) General rule.—

(1) The bonds of the authority shall be authorized by resolution of the board thereof and shall be of such series, bear such date or dates, bear or accrue interest at such rate or rates, fixed or variable, as shall be determined by the board as necessary to issue and sell the authorized bonds, be in such denominations, be in such form, either coupon or fully registered without coupons, be in certificated or book-entry-only form, carry such registration and exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption and be entitled to such priorities of payment in the revenues or receipts of the authority as the resolution or trust indenture adopted or approved by the authority may provide.

(2) The bonds shall be signed by or shall bear the facsimile signatures of such officers as the board shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, and all bonds shall be authenticated by an authenticating agent, fiscal agent or trustee, all as may be prescribed in the resolution or trust indenture.

(3) Any such bonds may be issued and delivered notwithstanding that one or more of the officers signing bonds or the treasurer whose facsimile signature shall be upon the coupon, or any thereof, shall have ceased to be an officer or officers at the time when the bonds shall actually be delivered.

(4) The proceeds of an issue of bonds may be used to pay the costs of a project; subject to the limitations of subsection (b), to finance any cash flow deficit of the authority; to reimburse any costs of a project initially paid by the authority or any person; to fund any required reserves; to capitalize interest; or to pay costs of issuance, including, but not limited to, costs of obtaining credit enhancement for the bonds.

(b) Maturity.—Bonds issued to finance the costs of a project shall mature at such time or times not exceeding 40 years from their respective dates of original issue as the authority shall by resolution determine. Bonds issued in anticipation of income of the authority shall mature within one fiscal year after the fiscal year of the date of issuance thereof, except for bonds issued in anticipation of grants with respect to the cost of a project, which bonds shall mature no later than six months beyond the time of anticipated receipt of the final payment of the grant.

(c) Sale.—Bonds may be sold at public sale or invited sale for such price or prices and at such rate or rates of interest as the authority shall determine. Bonds may be sold at private sale by negotiation at such price or prices and at such rate or rates of interest as the authority shall determine, but only if

the authority makes a written public explanation of the circumstances and justification for the private sale by negotiation. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(d) Negotiable instruments.—Bonds of an authority shall have the qualities of negotiable instruments under Title 13 (relating to commercial code).

(e) Refunding.—

(1) Subject to the provisions of the outstanding bonds, notes or other obligations issued under this chapter or prior acts and subject to the provisions of this chapter, the authority shall have the right and power to refund any outstanding debt, whether the debt represents principal or interest, in whole or in part, at any time.

(2) As used in this subsection, “refund” and its variations shall mean the issuance and sale of obligations the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity. Refunding bonds shall mature at such time or times not exceeding 40 years from their dates of original issuance as the authority shall determine by resolution.

(f) Credit of Commonwealth and political subdivisions not pledged.—Under no circumstances shall any bonds issued by the authority or any other obligation of the authority be or become an indebtedness or liability of the Commonwealth or of any government agency, provided that any government agency may guarantee bonds of an authority to the extent and for the purposes for which the government agency may make loans or grants to an authority.

(g) Nonliability.—Neither the board members, any employees of the authority nor any person executing the bonds shall be liable personally on any bonds by reason of the issuance thereof. Bonds of an authority shall contain a statement of the limitation set forth in this subsection.

(h) Bonds deemed valid.—Any bond reciting in substance that it has been issued by the authority to accomplish the public purposes of this subchapter shall be conclusively deemed in any suit, action or proceeding involving the validity or enforceability of the bonds or security therefor to have been issued for such purpose.

(i) Notice and challenges.—

(1) The authority may cause a copy of any resolution authorizing the issuance of bonds adopted by it to be filed for public inspection in its office and in the office of the clerk of the governing body of each county and the governing body of the city of the first class within its service area and may thereupon cause to be published in a newspaper published or circulating in its service area a notice stating the fact and date of the adoption, the places where the resolution has been so filed for public inspection, the date of publication of the notice and that any action or

proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the resolution, or the validity of any covenants, agreements or contract provided for by such resolution, shall be commenced within 20 days after the publication of the notice.

(2) If any notice shall at any time be published and if no action or proceeding questioning the validity or proper authorization of bonds provided for by the resolution or the validity of any covenants, agreements or contract provided for by such resolution shall be commenced within 20 days after the publication of the notice, then all residents, taxpayers and owners of property in the service area and users of the transportation system of the authority and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court or pleading any defense to any action or proceedings questioning the validity or proper authorization of such bonds or the validity of any such covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

(3) After issuance of bonds, all bonds shall be conclusively presumed to be fully authorized and issued by all the laws of this Commonwealth, and any person shall be estopped from questioning their sale, execution or delivery by the authority.

§ 1764. Contracts with obligees of an authority.

Except as otherwise provided in any resolution of an authority authorizing or awarding bonds, the terms thereof and of this chapter as in effect when the bonds were authorized shall constitute a contract between the authority and obligees of the authority, subject to modification in such manner as the resolution, the trust indenture securing such bonds or the bonds shall provide.

§ 1765. Commonwealth pledges.

(a) Limitation of powers.—

(1) The Commonwealth does hereby pledge to and agree with any person, firm or corporation, government agency, whether in this Commonwealth or elsewhere, or Federal agency subscribing to or acquiring the bonds to be issued by the authority that the Commonwealth will not limit or alter the rights hereby vested in the authority in any manner inconsistent with the obligations of the authority to the obligees of the authority until all bonds at any time issued, together with the interest thereon, are fully paid or provided for. The Commonwealth does further pledge to and agree with any Federal agency that, in the event that any Federal agency shall contribute any funds for the authority or any project, the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the due performance of any agreements between the authority and any Federal agency.

(2) The Commonwealth does hereby pledge to and agree with any person who, as owner thereof, leases or subleases property to or from an authority that the Commonwealth will not limit or alter the rights and powers hereby vested in the authority or otherwise created by this chapter in any manner which impairs the obligations of the authority until all obligations of the authority under the lease or sublease are fully met and discharged.

(b) Tax proceeds.—If and to the extent that the authority pledges its share of the proceeds of a tax authorized by law to be levied for authority purposes or made available for use by the authority as security for the payment of bonds issued by the authority, the Commonwealth does hereby pledge to and agree with any person, firm or corporation, government agency, whether in this Commonwealth or elsewhere, or Federal agency subscribing to or acquiring such bonds to be issued by the authority that the Commonwealth itself will not, nor will it authorize any government entity levying such tax to, abolish or to reduce the rate of tax imposed for authority purposes or made available for use by the authority until all bonds so secured by the pledge of the authority, together with the interest thereon, are fully paid or provided for.

§ 1766. Provisions of bonds and trust indentures.

In connection with the issuance of bonds or the incurring of obligations under leases, and in order to secure the payment of the bonds and obligations, the authority, in addition to its other powers, shall have the power to:

(1) Pledge or grant a security interest, senior, parity or subordinated, in all or any part of its revenues, including, but not limited to, the proceeds of any tax levied for the purposes of or made available for use by the authority, to which its right then exists or may thereafter come into existence.

(2) Grant a lien on or a security interest in, senior, parity or subordinated, in all or any part of its real or personal property then owned or thereafter acquired, provided, however, that no such lien shall extend to real property of an authority comprising rights-of-way, easements or any other interests in real property used or useful for passage of transportation vehicles or necessary for the safe and sound routing or control of transportation vehicles.

(3) Provide for the issuance of unsecured bonds, limited recourse bonds or nonrecourse bonds.

(4) Enter into trust indentures securing bonds, including, but not limited to, master trust indentures.

(5) Covenant against pledging or granting a lien on or security interest in all or any part of its revenues or all or any part of its real or personal property to which its right or title exists or may thereafter come into existence, or against permitting or suffering any lien on the revenues or property, covenant with respect to limitations on its right to sell, lease or



otherwise dispose of any of its real property and covenant as to which other or additional debts or obligations may be incurred by it.

(6) Covenant as to the bonds to be issued and as to the issuance of such bonds, in escrow or otherwise, and as to the use and disposition of the proceeds thereof, provide for the replacement of lost, destroyed or mutilated bonds, covenant against extending the time for the payment of its bonds or interest thereon and covenant for the redemption of bonds and provide the terms and conditions thereof.

(7) Covenant as to the amount of revenues to be raised in each fiscal year or other period of time by the authority, as well as to the use and disposition to be made thereof, create or authorize the creation of special funds for debt service or other purposes and covenant as to the use and disposition of the moneys held in such funds.

(8) Prescribe the procedure, if any, by which the terms of any contract with obligees of the authority may be supplemented, amended or abrogated, prescribe which supplements or amendments will require the consent of obligees of the authority and the amount of bonds to be held by obligees to effect such consent and prescribe the manner in which such consent may be given.

(9) Covenant as to the use of any or all of its real or personal property, warrant its title and covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance proceeds.

(10) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation, provided that the authority shall not be permitted to covenant that upon such breach any or all of its bonds or obligations the payment of which is secured solely by a pledge of or security interest in the proceeds of a tax authorized by law to be levied for authority purposes or made available by an authority shall become or may be declared due before the stated maturity thereof.

(11) Vest in the obligees of the authority or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; vest in a trustee the right, in the event of default by the authority, to take possession and use, operate and manage any real or personal property and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with such trustee; provide for the powers and duties of a trustee and to limit liabilities thereof; and provide the terms and conditions upon which the trustee or the obligees of the authority or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(12) Negotiate and enter into interest rate exchange agreements, interest rate cap, collar, corridor, ceiling and floor agreements, forward agreements, float agreements and other similar arrangements which, in the

judgment of the authority, will assist the authority in managing the interest costs of the authority.

(13) Obtain letters of credit, bond insurance and other facilities for credit enhancement and liquidity.

(14) Exercise all or any part or combination of the powers granted in this section to make covenants other than and in addition to the covenants expressly authorized in this section, to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of the authority, as will tend to accomplish the purposes of this chapter, by making the bonds more marketable notwithstanding that such covenants, acts or things may not be specifically enumerated in this section.

(15) Except as specifically authorized by this chapter, the real property of the authority shall not be mortgaged and shall not be subject to attachment nor levied upon by execution or otherwise. The revenues of the authority and the real and tangible personal property of the authority shall be pledged or otherwise encumbered only as expressly provided in this section and, except to the extent necessary to effectuate such pledge or encumbrance, shall not be subject to attachment nor levied upon by execution or otherwise.

§ 1767. Bonds to be legal investments.

Bonds issued under this chapter are hereby made securities in which all public officers and the instrumentalities and agencies of the Commonwealth and its political subdivisions, all insurance companies, banks, bank and trust companies, trust companies, banking associations, banking corporations, savings banks, investment companies, executors, trustees, the trustees of any retirement, pension or annuity fund or system of the Commonwealth and other fiduciaries may properly and legally invest funds, including capital, deposits or other funds in their control or belonging to them. These bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or instrumentality or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth now or may hereafter be authorized by law.

§ 1768. Rights and remedies.

(a) Additional rights.—An obligee of an authority shall have the right, in addition to all other rights which may be conferred on the obligee, subject only to any contractual restrictions binding upon the obligee:

(1) By mandamus, suit, action or proceeding at law or in equity, to compel the authority and the members, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any bond or contract of the authority with or for the benefit of the obligee and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter.

(2) By proceeding in equity, to obtain an injunction against any acts or things which may be unlawful or the violation of any of the rights of the obligee of the authority.

(3) To require the authority to account as if it were the trustee of an express trust for the obligees of the authority for any pledged revenues received.

(4) To enforce a pledge of or security interest in revenues of the authority securing payment of the bonds against all Commonwealth and local public officials in possession of any revenues at any time, which revenues may be collected directly from such officials upon notice by the obligee of the authority or a trustee for application to the payment of the bonds as and when due for deposits in any sinking, bond or debt service fund established with the trustee at the times and in the amounts specified in the bonds or the resolution or indenture or trust agreement securing the bonds. Any Commonwealth or local public official in possession of any revenues shall make payment against receipt and shall thereby be discharged from any further liability or responsibility for the revenues. If the payment shall be to an obligee of the authority, it shall be made against surrender of the bonds to the payor for delivery to the authority in the case of payment in full; otherwise, it shall be made against production of the bonds for notation thereon of the amount of the payment. The provisions of this section with respect to the enforceability and collection of revenues which secure bonds of the authority shall supersede any contrary or inconsistent statutory provision or rule of law.

(b) Application of section.—This section shall be construed and applied to fulfill the legislative purpose of clarifying and facilitating the financing of the authority of the costs of its transportation system by assuring to the obligees of the authority the full and immediate benefit of the security therefor without delay, diminution or interference based on any statute, decision, ordinance or administrative rule or practice.

§ 1769. Additional remedies conferrable by an authority.

An authority shall have power, by its resolution, trust indenture or loan or lease agreement, to confer upon any obligees holding or representing a specified percentage of bonds, or upon any bond insurer or provider of a letter of credit or other credit or liquidity facility, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default or such particular events of default as may be specified in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any real property or personal property or leasehold interest of the authority and of the rents and profits therefrom. If a receiver is appointed, the receiver may enter and take possession of such real property or any leasehold interest, operate the same and collect and receive all revenues or other income thereafter arising therefrom and shall keep such moneys in a separate account and apply the same in accordance with the obligations of the authority as the court shall

direct. Nothing in this section or any other section of this chapter shall authorize any receiver appointed under this chapter for the purpose of operating and maintaining any facilities of the authority to sell, assign, mortgage or otherwise dispose of any of the assets, of whatever kind or character, belonging to the authority, except for the sale or other disposition of moveable equipment or other tangible personal property in the ordinary course of business or the sale or disposition of real or personal property to the extent it is pledged to secure the authority's bonds. It is the intention of this chapter to limit the powers of the receiver to the operation and maintenance of the facilities of the authority as the court shall direct, and no obligee of the authority shall ever have the right in any suit, action or proceeding, at law or in equity, to compel a receiver, nor shall any receiver ever be authorized or any court be empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of any assets, of whatever kind or character, belonging to the authority, except for the expenditure of funds and the sale or other disposition of moveable equipment or other tangible personal property in the ordinary course of business or the sale or disposition of real or personal property to the extent it is pledged to secure the authority's bonds.

§ 1770. Validity of pledge.

Any pledge of or grant of a lien on or security interest in revenues of an authority or real or personal property of an authority made by an authority shall be valid and binding from the time when the pledge is made, the revenues or other property so pledged and thereafter received by the authority making such pledge shall immediately be subject to the lien of any such pledge, lien or security interest without any physical delivery thereof or further act, and the lien of any such pledge or security interest shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument of the authority by which a pledge, lien or security interest is created need be recorded or filed to perfect such pledge or security interest.

§ 1771. Security interest in funds and accounts.

Any moneys deposited in any fund created by the authority pledged to be used to pay debt service on bonds of the authority, including any sinking fund or debt service reserve fund, and all investments and proceeds of investments thereof, shall, without further action or filing, be subjected to a perfected security interest for the obligees of the authority with respect to the bonds until such moneys or investments shall be properly disbursed in accordance with this chapter and subject to the terms of any trust indenture or other contract between the authority and the obligees of the authority with respect to the bonds.

§ 1772. Payment of proceeds of tax levied for authority purposes.

The proceeds of any tax levied for authority purposes or made available for use by the authority and collected by the Department of Revenue, which

tax proceeds shall have been pledged by an authority to secure its bonds, shall be transferred by the State Treasurer to or upon the order of the authority at the times provided by law, subject to any limitations set forth in the resolution of the authority authorizing the bonds.

§ 1773. Limitation on authority under Federal bankruptcy code.

So long as an authority shall have outstanding any bonds issued under this chapter, the authority shall not be authorized to file a petition for relief under 11 U.S.C. Chapter 9 (relating to adjustment of debts of a municipality), and no public officer or agency or instrumentality of the Commonwealth shall authorize the authority to become a debtor under 11 U.S.C. Chapter 9 so long as any bonds issued under this chapter are outstanding.

#### SUBCHAPTER E MISCELLANEOUS PROVISIONS

Sec.

- 1781. Exemption from taxation.
- 1782. Rights and remedies preserved.
- 1783. Officers and employees continued.
- 1784. Continuance of bonds.
- 1785. Repeal.

§ 1781. Exemption from taxation.

The effectuation of the authorized purposes of an authority created or continued under this chapter shall and will be in all respects for the benefit of the people of this Commonwealth, for the increase of their commerce and prosperity and for the improvements of their health and living conditions, and, since an authority will, as a public instrumentality of the Commonwealth, be performing essential governmental functions in effectuating such purposes, such an authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever, now in existence or to be enacted in the future, whether imposed by the Commonwealth or by any government agency upon any property or the income therefrom acquired or used or permitted to be used by an authority for such purposes, and the bonds issued by any authority, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from State and local taxation within this Commonwealth. This exemption shall not extend to gift, estate, succession or inheritance taxes or any other taxes not levied directly on the bonds, the transfer thereof, the income therefrom or the realization of profits on the sale thereof.

§ 1782. Rights and remedies preserved.

The provisions of this chapter shall not in any way impair or in any manner affect the rights and remedies of obligees of a continued authority, and, notwithstanding any other provision of this chapter, all such rights and remedies shall be preserved by this chapter and shall be and shall remain valid, binding and enforceable in all respects. As used in this section,

“obligees of a continued authority” shall mean the holders of any notes, bonds, refunding notes and bonds, interim certificates, debentures and other evidences of indebtedness, obligees of contracts or other obligations of an authority established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities) and continued under section 1711 (relating to creation of metropolitan transportation authorities).

§ 1783. Officers and employees continued.

With respect to the officers and employees of any authority established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities), all such officers shall continue in office until the expiration of their respective terms of office, and all employees shall continue in employment under the terms and conditions of their respective contracts or agreements of employment; and all officers and employees shall exercise the powers, functions and duties of their respective offices or employment under this chapter.

§ 1784. Continuance of bonds.

Bonds, contracts and obligations of an authority continued under this chapter which contracts and obligations are in effect or outstanding on the effective date of this chapter shall continue in full force and effect.

§ 1785. Repeal.

All acts and parts of acts are repealed insofar as they are inconsistent with this chapter.

Section 5. Sections 1532 and 1550 of Title 75 are amended by adding subsections to read:

§ 1532. Revocation or suspension of operating privilege.

\* \* \*

*(c) Suspension.—The department shall suspend the operating privilege of any person upon receiving a certified record of the person’s conviction of any offense involving the possession, sale, delivery, offering for sale, holding for sale or giving away of any controlled substance under the laws of the United States, this Commonwealth or any other state.*

*(1) The period of suspension shall be as follows:*

*(i) For a first offense, a period of six months from the date of the suspension.*

*(ii) For a second offense, a period of one year from the date of the suspension.*

*(iii) For a third and any subsequent offense thereafter, a period of two years from the date of the suspension.*

*(2) For the purposes of this subsection, the term “conviction” shall include any conviction or adjudication of delinquency for any of the*

*offenses listed in paragraph (1), whether in this Commonwealth or any other Federal or state court.*

§ 1550. Judicial review.

\* \* \*

*(d) Out-of-State documentation.—In any proceeding under this section, documents received by the department from the courts or administrative bodies of other states or the Federal Government shall be admissible into evidence to support the department's case. In addition, the department may treat the received documents as documents of the department and use any of the methods of storage permitted under the provisions of 42 Pa.C.S. § 6109 (relating to photographic copies of business and public records) and may reproduce such documents in accordance with the provisions of 42 Pa.C.S. § 6103 (relating to proof of official records). In addition, if the department receives information from courts or administrative bodies of other states or the Federal Government by means of electronic transmission, it may certify that it has received the information by means of electronic transmission and that certification shall be prima facie proof of the adjudication and facts contained in such an electronic transmission.*

Section 6. Sections 6323(1) and 9511(h) of Title 75 are amended to read:  
§ 6323. Reports by courts.

Subject to any inconsistent procedures and standards relating to reports and transmission of funds prescribed pursuant to Title 42 (relating to judiciary and judicial procedure):

(1) The clerk of any court of this Commonwealth, within ten days after final judgment of conviction or acquittal or other disposition of charges under any of the provisions of this title *or under section 13 of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act*, including an adjudication of delinquency or the granting of a consent decree, shall send to the department a record of the judgment of conviction, acquittal or other disposition.

\* \* \*

§ 9511. Allocation of proceeds.

\* \* \*

(h) Allocation to Pennsylvania Turnpike Commission.—An amount equal to 14% of the proceeds deposited in the Motor License Fund pursuant to the “oil company franchise tax for highway maintenance and construction” imposed under section 9502(a)(2), which amount is to be distributed under section 9502(a)(2)(vi) for toll roads designated under the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, is hereby appropriated monthly to the Pennsylvania Turnpike Commission. *The Commonwealth does hereby pledge to and agree with any person, firm or corporation acquiring any bonds to be issued by the Pennsylvania Turnpike Commission and secured in whole or in part by a pledge of the portion of the tax known as the “oil company franchise tax for highway maintenance and construction” which is imposed*

*by section 9502(a)(2) and distributed in the manner indicated in that section, including 14% for toll roads designated under the Turnpike Organization, Extension and Toll Road Conversion Act, that the Commonwealth will not limit or alter the rights vested in the Pennsylvania Turnpike Commission to the appropriation and distribution of such tax revenues.*

Section 7. Section 13(m) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, is repealed.

Section 8. The provisions of 75 Pa.C.S. §§ 1532(c) and 1550(d) and the repeal of the provisions of section 13(m) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act, by the act shall not affect any act done, liability incurred or right accrued or vested or affect any suit or prosecution pending or be instituted to enforce any right or penalty or to punish any offense under the authority of any statute repealed by this act.

Section 9. This act shall take effect as follows:

- (1) The amendment of Title 74 shall take effect immediately.
- (2) The remainder of this act shall take effect in 60 days.

APPROVED—The 10th day of February, A.D. 1994.

ROBERT P. CASEY