

No. 2012-61

AN ACT

HB 10

Amending the act of April 6, 1956 (1955 P.L.1414, No.465), entitled, as amended, "An act to promote the welfare of the people of this Commonwealth; creating Port Authorities to function in counties of the second class as bodies corporate and politic, with power to plan, acquire, construct, maintain and operate facilities and projects for the improvement and development of the port district and to borrow money and issue bonds therefor; providing for the payment of such bonds and prescribing the rights of the holders thereof; conferring the right of eminent domain on the authorities; authorizing the authorities to enter into contracts with and to accept grants from the Federal government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates and services; and authorizing the authorities to collect tolls, fares, fees, rentals and charges for the use of facilities; defining the authorities' powers and duties, and defining the port districts; granting Port Authorities the exclusive right to engage in the business of owning, operating, and maintaining a transportation system for the transportation of persons in counties of the second class, providing, when necessary, for extension of transportation systems into adjoining counties and outside of said counties as provided in the act; limiting the jurisdiction of the Public Utility Commission over Port Authorities; authorizing municipalities to make loans and grants and to transfer existing facilities; authorizing Port Authorities to enter into contracts with and to accept grants from State and local governments or agencies thereof; exempting the property and facilities of such Port Authorities from taxation and limiting the time to commence civil action against said Authorities," further providing for title, for legislative findings, for definitions, for port authorities, for board, for eminent domain, for conveyance and for integrated operation; providing for exclusive jurisdiction and for report; and making editorial changes.

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

Section 1. The title of the act of April 6, 1956 (1955 P.L.1414, No.465), known as the Second Class County Port Authority Act, amended October 7, 1959 (P.L.1266, No.429), is amended to read:

AN ACT

To promote the welfare of the people of this Commonwealth; creating Port Authorities to function in counties of the second class as bodies corporate and politic, with power to plan, acquire, construct, maintain and operate facilities and projects for the improvement and development of the port district and to borrow money and issue bonds therefor; providing for the payment of such bonds and prescribing the rights of the holders thereof; conferring the right of eminent domain on the authorities; authorizing the authorities to enter into contracts with and to accept grants from the Federal government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates and services; and authorizing the authorities to collect tolls, fares, fees, rentals and charges for the use of

facilities; defining the authorities' powers and duties, and defining the port districts; granting Port Authorities the **[exclusive]** right to engage in the business of owning, operating, and maintaining a transportation system for the transportation of persons in counties of the second class, providing, when necessary, for extension of transportation systems into adjoining counties and outside of said counties as provided in the act; limiting the jurisdiction of the Public Utility Commission over Port Authorities; authorizing municipalities to make loans and grants and to transfer existing facilities; authorizing Port Authorities to enter into contracts with and to accept grants from State and local governments or agencies thereof; exempting the property and facilities of such Port Authorities from taxation and limiting the time to commence civil action against said Authorities.

Section 2. Section 1 of the act, amended October 7, 1959 (P.L.1266, No.429) and December 30, 1970 (P.L.953, No.300), is amended to read:

Section 1. It is hereby determined and declared as a matter of legislative finding:

(1) That a greater utilization of the rivers in the Commonwealth is necessary for the increased commerce and prosperity of the people of the Commonwealth.

(2) The increased commerce and prosperity of the people of the Commonwealth require, in counties of the second class, more effective coordination of the combined facilities of water, rail, air and highway.

(3) That the expanding industrial activities of the Commonwealth require the planning, designing, construction, erection and operation of port facilities in counties of the second class.

(4) That property values in counties of the second class are threatened with irreparable loss for the lack of port facilities available to industry.

(5) The crisis in industrial transportation, which threatens the welfare of the Commonwealth, can be reduced by providing adequate port facilities.

(6) That in counties of the second class there has been and is an ever increasing growth in the industrial, commercial and residential areas, requiring adequate and modern *transportation* facilities **[for the mass transportation of passengers]**.

(7) That the existing transportation facilities are and have been unable to adequately serve the growing areas in counties of the second class, to the detriment of the health, safety and general welfare of the inhabitants.

(8) That the well-being and economic health of the counties of the second class require **[an integrated system of mass passenger transportation] a modern transportation system.**

(9) That it is desirable that **[the] a** public transportation system be **[combined, improved, extended and supplemented] established** by the creation of **[authorities] an authority** as herein provided.

(10) That **[the establishment of a port authority will promote the public safety, convenience and welfare] it is desirable that a port authority be established by the creation of an authority as provided in this act.**

(11) That it is intended that the authority *created under this act* cooperate, *where mutually beneficial*, with **[and/or acquire existing transportation facilities] common carriers**, that private enterprise and

government may mutually provide adequate port facilities *and transportation services* for the convenience of the public.

(12) That it is intended that **[the authorities]** *an authority* created hereunder will cooperate with all municipalities and other public bodies in which **[they operate]** *it operates* so that the **[mass passenger]** *public* transportation system may best serve the interests of the residents thereof.

Therefore, it is hereby declared to be the policy of the Commonwealth of Pennsylvania to promote the safety and welfare of the inhabitants thereof by the creation of a body corporate and politic for each second class county, to be known as The Port Authority of (insert name of county), which shall exist and operate for the purposes contained in this act. Such 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.

Section 3. Section 2 of the act, amended or added October 7, 1959 (P.L.1266, No.429), September 16, 1961 (P.L.1361, No.605) and December 30, 1970 (P.L.953, No.300), is amended to read:

Section 2. As used in this act:

(1) The term "authority" shall mean any body, politic and corporate, created by this act.

(2) The term "port district" shall mean all the territory within a second class county.

(3) The term "member" shall mean a member of the governing body of an authority.

(4) The term "board" shall mean the governing body of an authority.

(5) The term "bonds" shall mean and include the notes, bonds, refunding bonds, and other evidences of indebtedness or obligations which the authority is authorized to issue, pursuant to section five of this act.

(6) The term "construction" shall mean and include acquisition and construction, and the term "to construct" shall mean and include to acquire and to construct all in such manner as may be deemed desirable.

(7) The term "municipality" shall mean any county, city, town, borough or township of the Commonwealth of Pennsylvania, or any authority organized under any law of the Commonwealth of Pennsylvania.

(8) The term "Federal agency" shall mean and include the United States of America, the President of the United States and any department or corporation, agency or instrumentality, heretofore or hereafter created, designated or established by the United States of America.

(9) The term "improvement" shall mean and include extension, enlargement and improvement, and the term "to improve" shall mean and include to extend, to enlarge and to improve all in such manner as shall be deemed desirable.

(10) The term "persons" shall mean and include natural persons.

(11) The term "port terminal" shall include any marine, motor truck, railroad and air terminal, also any coal, grain, bulk liquids and lumber terminal and any union, freight and other terminals, used or to be used, in connection with the transportation or transfer of freight and equipment, materials and supplies.

(12) The term "port facility" shall include all real and personal property used in the operation of a port terminal, including, but without being limited

to, wharves, piers, slips, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, float-bridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil and fresh water stations, railroads, motor trucks, floating elevators, airports, barges, scows or harbor craft of any kind, markets and every kind of terminal storage or supply depot, now in use or hereafter designed for use, to facilitate transportation and for the handling, storage, loading or unloading of freight at terminals, and equipment, materials and supplies therefor.

(13) The term "transportation system" shall mean 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, monorails, railroad motive power, trains, railroad passenger cars, and equipment, belt conveyors, inclines, car barns, street cars, buses, rails, lines, poles, wires, off-street parking facilities, as well as the franchises, rights and licenses therefor, including **[rights to provide]**, *but not limited to, the right to provide, directly or through contract, transportation or transportation services for any elderly, handicapped or Americans with Disabilities Act (ADA)-eligible persons or* group and party services: Provided, That such term shall not include taxicabs or bus companies, the main purpose of which is the transportation of children to and from school.

(14) The term "facility" shall mean port facility and transportation system.

(15) The term "local authorities" shall mean the officers of a municipality, elected or appointed, authorized to consent to the use of the municipality's streets, highways, bridges and tunnels and to enter into agreements relative to such use with the port authority.

(16) The term "Public Utility Commission" shall mean the Public Utility Commission of the Commonwealth of Pennsylvania, created by the act of March 31, 1937 (P.L.160).

(17) The term "service area" shall mean the entire county incorporating the authority and those portions of adjacent counties necessary to permit the authority (i) to acquire **[existing] a transportation [systems, eighty per centum of whose revenue vehicle miles for the preceding calendar year are operated within the incorporating county] system, at a price and in a manner deemed reasonable by an authority;** (ii) to acquire by purchase only and not by exercise of the right of eminent domain other existing transportation systems or parts thereof which, in the authority's sole discretion, are required for the establishment of **[an integrated] a system;** (iii) to establish transit service between points in the county incorporating the authority and points in the adjacent counties where no such service is at the time being rendered and which service the authority, in its sole discretion, has determined to be required: Provided, however, That no such service shall be established without the consent of the affected adjacent county nor without participation of such county in the payment of the cost of establishing and maintaining such service; and (iv) to establish rapid transit facilities over jointly used or exclusive fixed rights of way.

(18) The term "common carrier" shall have the same meaning as given to it in 66 Pa.C.S. § 102 (relating to definitions).

Section 4. Section 3 of the act, amended or added October 7, 1959 (P.L.1266, No.429), December 30, 1970 (P.L.953, No.300) and July 9, 1992 (P.L.700, No.104) and repealed in part June 3, 1971 (P.L.118, No.6), is amended to read:

Section 3. (a) There **[are hereby created bodies]** *is created in each county of the second class a single body* corporate and politic **[in counties of the second class]**, to be known as Port Authority of (insert name of county), which shall **[constitute public bodies corporate and politic; exercising]** *exercise* the public powers of the Commonwealth as an agency thereof. **[Each authority]** *An authority created under this section* shall be for the purpose of planning, acquiring, holding, constructing, improving, maintaining and operating, owning, leasing, either as lessor or lessee, port facilities within the port district *of the county by which it is incorporated*, and a transportation system in the county by which it is incorporated and outside of the county to the extent necessary for (i) the establishment of **[an integrated]** *a transportation* system; (ii) the establishment of additional transit service where none at the time is being otherwise rendered; (iii) the establishment of rapid transit facilities over jointly used or exclusive fixed rights of way and (iv) the rendering of **[all]** group and party services **[which can be provided by transportation systems subject to acquisition under this act pursuant to certificates of public convenience issued them by the Pennsylvania Public Utility Commission]**.

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

- (1) To have perpetual existence.
- (2) To sue and be sued, implead and be impleaded, complain and defend in all courts, to petition the Interstate Commerce Commission (or like 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 and such other office or offices as may be necessary for the carrying on of its duties.
- (5) To acquire, purchase, hold, lease as lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority, and to sell, lease as lessor, transfer and dispose of any property, or interest therein, at any time, required by it. In exercising the power granted by this subsection, the authority shall consider the same value factors as provided in section 7 of this act in determining compensation under the exercise of eminent domain.

(6) To acquire by purchase, lease, or otherwise, and to construct, improve, maintain, repair and operate facilities.

(6.1) To construct, improve, maintain, repair and operate high-occupancy vehicle lanes that are incorporated into and are made part of an authority facility.

(7) To make by-laws for the management and regulation of its affairs.

(8) To appoint officers, agents, employes and servants, to serve at the pleasure of the board (except as may otherwise be provided in collective bargaining agreements) and to prescribe their duties and fix their compensation: Provided, however, That the authority may bind itself by contract to employ an executive director, a general manager or a combined executive director and general manager and not more than five other senior executive personnel but no such contract shall be for a period of more than five years.

(9) 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 hereinafter provided, for the purpose of providing for the payment of the expenses of the authority, the acquisition, construction, improvement, repair, maintenance and operation of its facilities and properties, 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 or holders of any such obligations. The authority shall determine, by itself exclusively, the facilities **[to be operated by it]** and the services to be **[available to the public] operated by it**. Any person questioning the reasonableness of any rate or services fixed by an authority may bring suit against the authority in the court of common pleas of the county incorporating the authority. The court of common pleas shall have exclusive jurisdiction to determine the reasonableness of fares, rates and other charges or services fixed, altered, charged or collected by an authority. The court shall make such order as to fares, rates and other charges or services as to it shall be just and proper.

(10) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations of the authority, and to secure the payment of such bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals and receipts, and to make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued as the authority shall deem advisable and in general, to provide for the security for said bonds and the rights of the holders thereof.

(11) To make contracts of every name and nature, and to execute all instruments necessary or convenient for the carrying on of its business. Without limiting the generality of the foregoing, the authority is authorized to enter into contracts for the purchase, lease, operation or management of facilities subject to the jurisdiction of the Interstate Commerce Commission.

(12) Without limitation of the foregoing, to borrow money and accept grants from and to enter into contracts, leases or other transactions with any Federal agency, Commonwealth of Pennsylvania, municipality or corporation.

(13) To have the power of eminent domain.

(14) To pledge, hypothecate, or otherwise encumber, all or any of the revenues or receipts of the authority as security for all or any of the obligations of the authority.

(15) 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 act or any other acts.

(16) To enter into contracts with the Commonwealth of Pennsylvania, municipalities or corporations, on such terms as the authority shall deem proper for the use of any facility of the authority, and fixing the amount to be paid therefor.

(17) To enter into contracts of group insurance for the benefit of its employes, or to continue in existence any existing insurance and/or pension or retirement system and/or any other employe benefit arrangement covering employes of an acquired **[existing]** transportation system, and/or to set up a retirement or pension fund or any other employe benefit arrangement for such employes.

(18) An authority shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth of Pennsylvania or any political subdivision, nor shall any of its obligations be deemed to be obligations of the Commonwealth of Pennsylvania or of any of its political subdivisions, nor shall the Commonwealth of Pennsylvania or any political subdivision thereof be liable for the payment of principal or interest on such obligations.

(19) 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 such vacation, but shall be acquired or relocated by the authority in the same manner as other property.

(20) To have the right to use any public road, street, way, highway, bridge or tunnel for the operation of a transportation system within the service area of its **[integrated]** system as set forth in the authority's plan of integrated operation as provided in section 13.1 hereof: Provided, That in the case of street railway or trolley coach facilities or pole and wire facilities or overhead structures, such right shall not be exercised within the limits of any county, city, borough or township, without the consent of the local authorities thereof and/or the **[State Highway] Department of Transportation**, which consent shall not be unreasonably withheld and cannot be conditioned upon the payment of any bridge tolls or license fees, notwithstanding any existing agreements with the predecessor company or individual; and to enter into agreements with and accept franchises and licenses from such cities, boroughs and townships for such use.

(21) To establish such carrier routes as it deems necessary for the efficient operation of the transportation system owned **[or otherwise acquired]** by it under the terms of this act, subject to any limitations herein provided for; and to alter and vary and discontinue such carrier routes at its discretion.

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

(23) To lease property or contract for service, including managerial and operating service, whenever it, **in its sole discretion, determines that it** can more efficiently and effectively serve the public by so doing, rather than conducting its own operations with its own property **or employes**.

(24) To form plans for the improvement of *public* mass transportation in order to promote the economic development of the service area in which the 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 of Highways]** *department* and to other appropriate governmental bodies; and otherwise to cooperate with all such governmental bodies.

(25) To enter into agreements with any public utility operating a railroad or any other *public or private* transportation facility *or common carrier* wholly or partially *located or providing transportation services* within the service area for the joint or exclusive use of any property of the *entity, the* authority or the public utility or the establishment of through routes over the rights of way of the *entity, the* public utility or the authority or the establishment of joint fares and transfer of passengers.

(26) To develop programs designed solely to advertise, promote and stimulate the development and use of its port facility and transportation system and to join and to authorize its agents, employes and servants to join national and local trade and professional organizations organized for the purpose of promoting the betterment of port facilities and transportation systems and the improvement of the efficiency of persons connected with or employed by port facilities and transportation systems.

(27) Notwithstanding any other provision of law, to contract with any third party for the allocation of liability for any and all claims, actions, suits or damages, whether for compensatory or punitive damages, arising against a third party or the authority in connection with any accident or incident related to the operations conducted by or on behalf of or authorized by the authority or a third party, on property owned by the authority or on property owned by a third party and adjacent to the authority's property. If a third party asserts against the authority any claim relating to liability that the authority, pursuant to contract, has assumed, such claim may, to the extent provided in this clause, result in the imposition of liability on the authority, and the defense of sovereign immunity as provided in 42 Pa.C.S. Ch. 85 Subch. B (relating to actions against Commonwealth parties) shall not be raised by the authority in connection therewith. The aggregate of liability for all claims, actions, suits or damages, whether for compensatory or punitive damages, that may be asserted against and imposed upon such third party and which the authority, pursuant to such contract, has assumed shall not exceed the limits of the liability insurance coverage maintained by the authority in connection with such assumed obligations, which insurance coverage shall not be less than ten million dollars. The authority shall be entitled to obtain and maintain insurance coverage in amounts deemed by the authority to be necessary or desirable and to name such third party as an additional named insured on any insurance policies relating thereto.

Section 5. Section 6 of the act, amended June 18, 1999 (P.L.72, No.11), is amended to read:

Section 6. Subject to the provisions of section 6.1, the powers of **[the]** *an* authority shall be exercised by a board, composed of the number of members, not more than nine, **[one of whom shall at all times be a member**

of the county council appointed by the county executive,] as shall be fixed by the county council of **[each county of the second class. The county executive of each county of the second class]** *the county where the authority is located. The county executive of that county* shall appoint the members of the board, *one of whom shall at all times be a member of the county council*, all of whom shall be residents of such county and citizens of the United States, whose terms of office shall commence on the date of appointment, one member shall serve for one year, one for two years, one for three years, and one for four years, and one for five years, from the first day of January next succeeding the date of approval of this act, and terms of other members shall be staggered in a similar manner but in no instance shall exceed five years. Thereafter, whenever a vacancy has occurred or is about to occur by reason of the expiration of the term of any member, the county executive shall appoint a member for a term of five years to succeed the member whose term has expired or is about to expire. Members shall hold office until their successors have been appointed, and may succeed themselves. A member shall receive such compensation for his services as the county executive shall determine and shall be entitled to the necessary expenses, including traveling expenses incurred in the performance of his duties. Within ninety days after the creation of the authority, the board shall meet and organize by electing from their number a chairman, a vice chairman, and such other officers as the board may determine. The board may employ a secretary, an executive director, its own counsel and legal staff and such technical experts and other agents and employes, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation of such persons. Six members of the board shall constitute a quorum for its meetings. Members of the board shall not be liable personally on the bonds or other obligations of the authority, and the rights of creditors shall be solely against **[such]** *the* authority. The board may delegate to one or more of its agents or employes such of its powers as it shall deem necessary to carry out the purposes of this act, subject always to the supervision and control of the board. The board shall have full authority to manage and operate the business of the authority and to prescribe, amend and repeal by-laws, rules and regulations governing the manner in which the business of the authority may be conducted and the powers granted to it may be exercised and embodied. Copies of such by-laws, rules and regulations shall be filed with the county council of the county **[incorporating the authority]**. A member may be removed for cause by the court of common pleas of the county in which the authority is located after having been provided with a copy of the charges against the member for at least ten days and a full hearing by the court.

If a vacancy occurs by reason of the death, resignation or removal of a member, the county executive shall appoint a successor to fill the unexpired term.

Section 6. Section 7.1 of the act, added October 7, 1959 (P.L.1266, No.429), is amended to read:

Section 7.1. **[The]** *An* authority shall exercise its power of eminent domain in the manner prescribed by the provisions of Article XXVI[.] of the act of July 28, 1953 (P.L.723), known as the "Second Class County Code,"

except as such provisions are in conflict with the provisions of this section: Provided, That no property owned or used by the United States, the Commonwealth of Pennsylvania, any political subdivision thereof, or any body politic and corporate organized as an "authority" under any law of the Commonwealth or by any agency of any of them, nor any property used by a public utility other than a transportation system, nor any common carrier subject to the jurisdiction of the Interstate Commerce Commission *or the Public Utility Commission*, nor any property used for burial purposes or places of public worship, shall be taken under the right of eminent domain.

In case the authority shall repeal any resolution passed or discontinue any proceeding taken with respect to the exercise of its right of eminent domain prior to the entry upon, taking, appropriation or injury to any property, the authority shall not thereafter be liable to pay any damages which have been or might have been assessed, but all costs and expenses upon any proceeding had thereon shall be paid by the authority together with any actual damage, loss or injury sustained by reason of such proceeding.

In ascertaining, assessing and determining the amount of compensation or damages to be paid by the authority, the board of viewers may determine every fact, matter or thing, which in its judgment does or may have any bearing on the fair amount of the compensation. The factors thus to be taken into account shall include, among other things, the gross annual revenue, the original cost of construction, with particular reference to the amount expended in existing and useful permanent improvements, with such consideration for the amount in market value of the owner's bonds and stocks, if the owner be a corporation, as to the board of viewers may seem just and fair; the probable earning capacity of the property under particular rates prescribed by statute or ordinance or other municipal contract or fixed by any regulatory body; and for the items of expenditures for obsolete equipment and construction as the circumstances and historical development of the properties may warrant. The reproduction cost of the property based upon the fair average price of materials, property and labor, and the development and going-concern value of such properties, facilities, and franchises, any element of delay under these proceedings, and other elements of value, shall be given such weight by the board of viewers as may, in its judgment, be just and right in each case, as in other matters involving the valuation of properties and facilities devoted to the public service and coming before the said board of viewers for determination. The determination of the board of viewers shall award compensation or damages to each owner separately, and, in case any owner is also the lessee of the properties, facilities and franchises of any other company whose properties, facilities or franchises are acquired or to be acquired hereunder, the total amount awarded with respect thereto shall be apportioned between the owner or owners of such properties, facilities and franchises and any person or persons, company or companies, having an interest therein by virtue of any such lease or series of leases, the purpose of this provision being that the gross amount of damages or compensations, ascertained and determined as hereinabove provided, shall be distributed among those rightfully entitled thereto in such manner as may be just and equitable, having in view their respective interests therein.

When the authority exercises its right of eminent domain, it shall, prior to taking possession of the property, pay into the court of common pleas of the county in which said authority is **[created]** *located* in the manner to be provided by the rules of court, a sum equal to seventy-five per centum (75%) of the amount estimated by it as the damages which will result from such exercise. Upon such payment into court, the authority shall have the right to immediate possession of the property and the authority shall be relieved of all obligation to see to the application or distribution of said money paid into court. The court shall direct the payment of said sum of money to the person or persons entitled thereto upon petition and proof of such entitlement and upon such conditions, including the filing of a refunding bond, as the court shall, by general or special rule, provide.

Any payments made pursuant to this act shall be credited upon the award or verdict and final judgment, provided such award and judgment is in a greater amount. Any payment made in excess of the award and verdict and final judgment shall be refunded to the authority. Detention damages and interest on the award of damages shall be limited to the amount, if any, by which the amount of money paid into court, as hereinabove required, is less than the award or verdict and final judgment.

Section 7. Section 13 of the act, amended or added March 20, 1963 (P.L.5, No.3) and December 30, 1970 (P.L.953, No.300), is amended to read:

Section 13. Any municipality or owner is hereby authorized to sell, lease, lend, grant, transfer or convey to **[the]** *an* authority, with or without consideration, any facility or any part or parts thereof, or any interest in real or personal property which may be used by the authority in the construction, improvement, maintenance or operation of any facility. Any municipality is also authorized to transfer, sell, assign and set over to the authority any contracts which may have been awarded by such municipality for the construction of facilities not begun, or if begun, not completed. Any county of the second class is hereby empowered to issue general obligation or non-debt revenue bonds for the purpose of providing funds for the acquisition, construction or improvement of any facility. Any county of the second class may and it is hereby authorized to make grants or loans from current revenues or the proceeds of general obligation bonds to the authority to assist in defraying the costs of any demonstration, test or experimental projects, and the costs of studies in preparation of a plan of integrated operation and for the operation, maintenance and debt service of any facility and to enter into long term agreements providing for the payment of such grants.

Any county wherein any part of a transportation system **[as]** established *by an authority created* under this act is operating or is proposed to operate is hereby empowered (i) to issue general obligation bonds for the purpose of providing funds for the acquisition, construction or improvement of the transportation system; (ii) to make grants or loans from current revenues or the proceeds of general obligation bonds to the authority to assist in defraying the cost of any demonstration test or experimental projects and the cost of studies in preparation of a plan of **[integrated]** operation and the improvement of the transportation system and for the operation, maintenance and debt service of the transportation system and to enter into long term

agreements with the authority and with one or more other counties served by the transportation system providing for the payment of such grants.

Section 8. Section 13.1 of the act, amended or added October 7, 1959 (P.L.1266, No.429), March 20, 1963 (P.L.5, No.3) and December 30, 1970 (P.L.953, No.300), is amended to read:

Section 13.1. **[The] An** authority, immediately upon its organization, shall commence its study of **[an integrated] a** system of **[mass]** transportation within the service area. Such study shall include, but not be limited to the estimated cost of acquisition of existing transportation systems, the development of facilities, the estimates of revenues and the financial feasibility of **[an integrated] a** system of **[mass]** transportation. Thereafter, the authority shall prepare a plan of **[integrated]** operation showing the service area and the pattern of its **[integrated]** system. The plan of **[integrated]** operation shall be submitted for approval to the **[board of county commissioners of the county incorporating the authority] county council of the county where the authority is located**, and simultaneously, the authority shall submit to the **[board of county commissioners] county council** the recommendation of the authority on the plan of **[integrated]** operation, and a schedule disclosing estimated cost of acquisition of existing transportation systems, estimates of revenue and expenditures for the proposed plan of **[integrated]** operation, and the proposed method of financing the acquisition and the plan of **[integrated]** operation. The **[board of county commissioners] county council** shall advertise the fact that the plan of **[integrated]** operation has been submitted and is available for public inspection at least once each week for two consecutive weeks in a newspaper of general circulation in the county *where the authority is located*. Provided, That no action may be taken by the **[board of county commissioners] county council** until the plan of **[integrated]** operation has been on file in the office of the county **[commissioners] council** and available for public inspection for a period of at least thirty days following the date of publication of the second notice. The **[board of county commissioners] county council** may approve or reject the plan of **[integrated]** operation as submitted or, at any time thereafter, direct the authority to revise the original plan of **[integrated]** operation. In the event of a revision of the original plan of **[integrated]** operation, such revised plan of **[integrated]** operation shall be resubmitted to the **[board of county commissioners] county council** and shall be acted upon in the same manner as herein provided in the case of the submission by the authority of the original plan of **[integrated]** operation. Prior to approving or rejecting the plan of **[integrated]** operation or revised plan of **[integrated]** operation, the **[board of county commissioners] county council** may submit the question of approval of such plan or revised plan of **[integrated]** operation for referendum at any general, municipal or primary election. In the event of a referendum, the question shall be submitted on the ballot or on voting machines in the manner provided by the election laws of the Commonwealth and shall be in substantially the following form:

Shall the **[board of county commissioners]**
county council of
 County approve the **[integrated]** plan of
 operation of a **[mass]** transportation system
 submitted under the provisions of the Second
 Class County Port Authority Act?

Yes.....
 No.....

The referendum on this question shall be governed in all respects by the election laws of the Commonwealth in so far as they are applicable. Upon final approval by the **[board of county commissioners]** *county council*, the original or revised plan of **[integrated]** operation shall be recorded in the office of the recorder of deeds of the county or counties affected thereby and a copy of said plan of **[integrated]** operation shall also be filed with the **[Pennsylvania]** Public Utility Commission. The authority shall, thereafter, have the right to make such changes in the pattern of its **[integrated]** *transportation* system and its service area as it may deem proper, subject to appeal to the court of common pleas in the same manner as provided for in clause (9) of subsection (b) of section 3 of this act, by adopting an amendment to the plan of **[integrated]** operation or service area and filing and recording the same in the office of the recorder of deeds and with the **[Pennsylvania]** Public Utility Commission as above provided. The authority shall not have power to acquire by purchase, condemnation or otherwise, any existing transportation systems, or engage in the operation of a transportation system as provided under this act, until it has met the requirements for recording and filing of the plan of integrated operation as provided herein: Provided, however, That the authority may enter into option agreements with any existing transportation systems for the purchase, lease or operation thereof, subject to the final approval of the plan of **[integrated]** operation by the **[board of county commissioners]** *county council*: Provided further, That nothing in this section, including the foregoing proviso clause, shall prevent, limit, restrict or interfere with in any way an undertaking or joining by the authority of any demonstration, test or experimental project relevant to, and necessary for, the establishment of an integrated transportation system or of any demonstration, test or experimental project that may be required, or advisable, to establish the feasibility of **[an integrated]** *a* transportation system.

Upon the recording of the plan of **[integrated]** operation, any law to the contrary notwithstanding, the authority shall have exclusive jurisdiction with respect to all matters regarding its transportation system within the service area as set forth in the plan of operation or as from time to time changed as in this section **[provided. The Public Utility Commission shall have no authority to grant certificates of public convenience for a transportation system within the service area of the authority or for the establishment of group and party rights to operate wholly within such service area. The Public Utility Commission shall continue to have jurisdiction, except as otherwise provided in this section, with respect to all matters regarding those transportation systems and group and party rights to operate into or out of said service area.**

The authority shall have the exclusive right to operate a transportation system within the service area as set forth in the plan of integrated

operation, except for those transportation systems operating into the said service area from points outside of said area, which companies shall have the right to pick up and discharge passengers destined to and from the territory outside of said area but not the right to pick up and discharge passengers entirely within the service area. Said excepted transportation systems by agreement with the authority may arrange for the pick up and discharge of passengers within the said service area when, in the opinion of the authority, such privilege will serve the purpose for which the authority was created. The authority may, also by agreement with an existing transportation system now servicing the said service area, permit a continuation of such services where, in the opinion of the authority, such privilege will serve the purpose for which the authority was created. In the event no such agreement is entered into between the excepted transportation systems and the authority prior to the authority commencing to operate a mass transportation system in the service area, the authority shall be liable for all direct and consequential damages for any loss in value of the remaining portions of the system arising from the loss of the right to pick up and discharge passengers entirely within the service area.

The authority shall, within two years after approval by the board of county commissioners and the recording and filing of the plan of integrated operation in the office of the recorder of deeds and with the Pennsylvania Public Utility Commission as hereinabove provided, acquire by purchase, lease or eminent domain, or shall enter into an operation contract with all transportation systems operating entirely within the county in which the authority is created or eighty per centum of whose revenue vehicle miles for the preceding calendar year are operated within said county, except those transportation systems subject to the jurisdiction of the Interstate Commerce Commission: **Provided, That the court of common pleas of the county in which such authority is created may, upon cause shown, extend the two-year period hereinbefore mentioned: And provided,;** *Provided,* That if the authority shall at any time desire to abandon or change any portion of a transportation system outside the territorial limits of the county incorporating the authority, the approval for such abandonment or change must be secured by the authority from the [Pennsylvania] Public Utility Commission[: **And provided further, That all**].

All group and party services provided by the authority outside the service area under rights acquired by it pursuant to this act shall be subject to the regulation by the [Pennsylvania] Public Utility Commission.

Section 9. The act is amended by adding sections to read:

Section 13.6. (a) Notwithstanding any other provision of this act, the Public Utility Commission shall have sole and exclusive jurisdiction over an entity, other than:

- (1) an authority created under this act; or***
- (2) a transportation system operated by or for an authority created under this act***

which seeks to provide transportation services within a service area if the transportation services would otherwise be subject to the jurisdiction of the Public Utility Commission.

(b) Except as otherwise provided in this act, the Public Utility Commission shall have no jurisdiction over an authority created under this act, and may not grant a certificate of public convenience for a transportation system operated by or for, or for services provided by or for, such an authority.

Section 13.7. Within one year of the effective date of this section and by March 31 of each year thereafter, each authority created under this act shall file a report with the Consumer Protection and Professional Licensure Committee of the Senate, the Transportation Committee of the Senate, the Consumer Affairs Committee of the House of Representatives and the Transportation Committee of the House of Representatives concerning at least all of the following:

- (1) The budget of the authority.*
- (2) The annual aggregate revenues of the authority.*
- (3) The number of employees of the authority.*
- (4) The status of any labor agreement or negotiations, to the extent not otherwise prohibited by law or a duly asserted privilege.*
- (5) The annual aggregate revenue generated by transportation service provided by the authority.*
- (6) The annual aggregate ridership of the transportation service provided by the authority.*
- (7) The annual revenues of each transportation service provided by the authority.*
- (8) The annual ridership of each transportation service provided by the authority.*
- (9) The annual aggregate revenue generated by port activities provided by the authority.*
- (10) The annual aggregate use of port activities provided by the authority.*

Section 10. This act shall take effect in 90 days.

APPROVED—The 13th day of June, A.D. 2012

TOM CORBETT