

## TITLE 53, CHAPTER 56

### MUNICIPAL AUTHORITIES

#### **Sec.**

- 5601. Short title of chapter.
- 5602. Definitions.
- 5603. Method of incorporation.
- 5604. Municipalities withdrawing from and joining in joint authorities.
- 5605. Amendment of articles.
- 5606. School district projects.
- 5607. Purposes and powers.
- 5608. Bonds.
- 5609. Bondholders.
- 5610. Governing body.
- 5611. Investment of authority funds.
- 5612. Money of authority.
- 5613. Transfer of existing facilities to authority.
- 5614. Competition in award of contracts.
- 5615. Acquisition of lands, water and water rights.
- 5616. Acquisition of capital stock.
- 5617. Use of projects.
- 5618. Pledge by Commonwealth.
- 5619. Termination of authority.
- 5620. Exemption from taxation and payments in lieu of taxes.
- 5621. Constitutional construction.
- 5622. Conveyance by authorities to municipalities or school districts of established projects.

**Enactment.** Chapter 56 was added June 19, 2001, P.L.287, No.22, effective immediately.

**Special Provisions in Appendix.** See sections 2 and 4 of Act 22 of 2001 in the appendix to this title for special provisions relating to applicability to authorities incorporated under former laws and continuation of Municipality Authorities Act of 1945.

#### **§ 5601. Short title of chapter.**

This chapter shall be known and may be cited as the Municipality Authorities Act.

#### **§ 5602. 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:

**"Administrative service."** In the case of authorities created for the purpose of making business improvements or providing administrative services, the term means those services which improve the ability of the commercial establishments of a district to serve the consumers, such as free or reduced-fee parking for customers, transportation repayments, public relations programs, group advertising and district maintenance and security services.

**"Authority."** A body politic and corporate created under this chapter; under the former act of June 28, 1935 (P.L.463, No.191), known as the Municipality Authorities Act of one thousand nine hundred and thirty-five; or under the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities

Act of 1945.

**"Board."** The governing body of an authority.

**"Bonds."** Notes, bonds and other evidence of indebtedness or obligations which each authority is authorized to issue pursuant to section 5608 (relating to bonds).

**"Business improvement."** In the case of authorities created for the purpose of making business improvements or providing administrative services, the term means those improvements designated by an authority to be needed by a district in general or by specific areas or individual properties within or near the district, including, but not limited to, sidewalks, retaining walls, street paving, street lighting, parking lots, parking garages, trees and shrubbery, pedestrian walks, sewers, water lines, rest areas and acquisition and remodeling or demolition of blighted buildings or structures. Improvements shall not be made to property not acquired by purchase or lease other than those improvements made within a right-of-way.

**"Construction."** Acquisition and construction. The term "to construct" shall mean and include to acquire and to construct, all in such manner as may be deemed desirable.

**"Eligible educational institution."** An independent institution of higher education located in and chartered by the Commonwealth or a private secondary school located in this Commonwealth and approved by the Department of Education which is not a State-owned institution, which is operated not for profit, which is determined by the authority not to be a theological seminary or school of theology or a sectarian and denominational institution and which is approved as eligible by the authority pursuant to regulations approved by it.

**"Federal agency."** The United States of America, the President of the United States of America and any department of or corporation, agency or instrumentality created, designated or established by the United States of America.

**"Financing," "to finance" or "financed."** The lending or providing of funds to or on behalf of a person for payment of the costs of a project or for refinancing such costs, repayment of loans previously incurred to pay the cost of a project or otherwise.

**"Health center."** A facility which:

- (1) is operated by a nonprofit corporation and:
  - (i) provides health care services to the public;
  - (ii) provides health care-related services or assistance to one or more organizations in aid of the provision of health care services to the public, including, without limitation, such facilities as blood banks, laboratories, research and testing facilities, medical and administrative office buildings and ancillary facilities;
  - (iii) constitutes an integrated facility which provides substantial health care services on a nonsectarian basis and other reasonably related services, including, without limitation, life care or continuing care communities and nursing, personal care or assisted living facilities for the elderly, handicapped or disabled; or
  - (iv) provides educational and counseling services regarding the prevention, diagnosis and treatment of

health care problems; and

(2) if required by law to be licensed to provide such services by the Department of Health, the Department of Public Welfare or the Insurance Department, is so licensed or, in the case of a facility to be constructed, renovated or expanded, is designed to comply with applicable standards for such licensure.

**"Improvement."** Extension, enlargement and improvement. The term "to improve" shall mean and include to extend, to enlarge and to improve all in such manner as may be deemed desirable.

**"Local government unit."** This term shall have the same meaning as provided under section 8002 (relating to definitions).

**"Municipal authority."** The body or board authorized by law to enact ordinances or adopt resolutions for the particular municipality.

**"Municipality."** A county, city, town, borough, township or school district of the Commonwealth.

**"Project."** Equipment leased by an authority to the municipality or municipalities that organized it or to any municipality or school district located wholly or partially within the boundaries of the municipality or municipalities that organized it, or any structure, facility or undertaking which an authority is authorized to acquire, construct, finance, improve, maintain or operate, or provide financing for insurance reserves under the provisions of this chapter, or any working capital which an authority is authorized to finance under the provisions of this chapter.

**"Provide financing for insurance reserves."** Financing, on behalf of one or more local government units or authorities, all or any portion of a reserve or a contribution toward a combined reserve, pool or other arrangement relating to self-insurance which has been established by one or more local government units pursuant to 42 Pa.C.S. § 8564 (relating to liability insurance and self-insurance) up to, but not exceeding, the amount provided in section 8007 (relating to cost of project).

**"Working capital."** Shall include, but not be limited to, funds for supplies, materials, services, salaries, pensions and any other proper operating expenses, provided that the term shall be limited solely to hospitals and health centers, and private, nonprofit, nonsectarian colleges and universities, State-related universities and community colleges, which are determined by the authority to be eligible educational institutions. Nothing in this chapter shall prohibit the borrowing of working capital as may be necessary or incidental to the undertaking or placing in operation of any project undertaken in whole or in part pursuant to this chapter. (Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended the defs. of "authority" and "provide financing for insurance reserves," retroactive to June 19, 2001.

**§ 5603. Method of incorporation.**

(a) **Resolution of intent.**—Whenever the municipal authorities of any municipality singly or of two or more municipalities jointly desire to organize an authority under this chapter, they shall adopt a resolution or ordinance

signifying their intention to do so. No such resolution or ordinance shall be adopted until after a public hearing has been held, the notice of which shall be given at least 30 days before the hearing and in the same manner as provided in subsection (b) for the giving of notice of the adoption of the resolution or ordinance.

**(b) General notice of adopted resolution.**—If the resolution or ordinance is adopted, the municipal authorities of such municipality or municipalities shall cause a notice of such resolution or ordinance to be published at least one time in the legal periodical of the county or counties in which the authority is to be organized and at least one time in a newspaper published and in general circulation in such county or counties. The notice shall contain a brief statement of the substance of the resolution or ordinance, including the substance of the articles making reference to this chapter. In the case of authorities created for the purpose of making business improvements or providing administrative services, if appropriate, the notice shall specifically provide that the municipality or municipalities have retained the right which exists under this chapter to approve any plan of the authority. The notice shall state that on a day certain, not less than three days after publication of the notice, articles of incorporation of the proposed authority shall be filed with the Secretary of the Commonwealth. No municipality shall be required to make any other publication of the resolution or ordinance under the provisions of existing law.

**(c) Filing articles of incorporation.**—On or before the day specified in the notice required under subsection (b), the municipal authorities shall file with the Secretary of the Commonwealth articles of incorporation together with proof of publication of the notice required under subsection (b). The articles of incorporation shall set forth:

- (1) The name of the authority.
- (2) A statement that the authority is formed under this chapter.
- (3) A statement whether any other authority has been organized under this chapter or under the former act of June 28, 1935 (P.L.463, No.191), entitled "An act providing for the incorporation, as bodies corporate and politic, of "Authorities" for municipalities, counties, and townships; defining the same; prescribing the rights, powers, and duties of such Authorities; authorizing such Authorities to acquire, construct, improve, maintain, and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and for other purposes," or the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, and is in existence in or for the incorporating municipality or municipalities. If any one or more of the municipalities have already joined with other municipalities not composing the same group in organizing a joint authority, the application shall set forth the name of that authority together with the names of the

municipalities joining in it.

(4) The name of the incorporating municipality or municipalities together with the names and addresses of its municipal authorities.

(5) The names, addresses and term of office of the first members of the board of the authority.

(6) In the case of authorities created for the purpose of making business improvements or providing administrative services, if appropriate, a statement that the municipality or municipalities have retained the right which exists under this chapter to approve any plan of the authority.

(7) Any other matter which shall be determined in accordance with the provisions of this chapter.

**(d) Execution of articles.**—The articles of incorporation shall be executed by each incorporating municipality by its proper officers and under its municipal seal.

**(e) Certification of incorporation.**—If the Secretary of the Commonwealth finds that the articles of incorporation conform to law, he shall, but not prior to the day specified in the notice published in accordance with subsection (b), endorse his approval of them and, when all proper fees and charges have been paid, shall file the articles and issue a certificate of incorporation to which shall be attached a copy of the approved articles. Upon the issuance of a certificate of incorporation by the Secretary of the Commonwealth, the corporate existence of the authority shall begin. The certificate of incorporation shall be conclusive evidence of the fact that the authority has been incorporated, but proceedings may be instituted by the Commonwealth to dissolve an authority which was formed without substantial compliance with the provisions of this section.

**(f) Certification of officers.**—When an authority has been organized and its officers elected, its secretary shall certify to the Secretary of the Commonwealth the names and addresses of its officers as well as the principal office of the authority. Any change in the location of the principal office shall likewise be certified to the Secretary of the Commonwealth within ten days after such change. An authority created under the laws of the Commonwealth and existing at the time this chapter is enacted, in addition to powers granted or conferred upon the authority, shall possess all the powers provided under this chapter.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsec. (f), retroactive to June 19, 2001.

**Cross References.** Section 5603 is referred to in section 5605 of this title.

**§ 5604. Municipalities withdrawing from and joining in joint authorities.**

**(a) Power to withdraw.**—When an authority has been incorporated by two or more municipalities, any one or more of such municipalities may withdraw from it, but no municipality shall be permitted to withdraw from an authority after an obligation has been incurred by that authority.

**(b) Power to join.**—When an authority has been incorporated by one or more municipalities, a municipality not having joined in the original incorporation may subsequently join in the

authority.

**(c) Procedure.**—Any municipality wishing to withdraw from or to become a member of an existing authority shall signify its desire by resolution or ordinance. If the authority shall by resolution express its consent to such withdrawal or joining, the municipal authorities of the withdrawing or joining municipality shall cause a notice of its resolution or ordinance to be published at least one time in the legal periodical of the county or counties in which the authority is organized and at least one time in a newspaper published and in general circulation in such county or counties. This notice shall contain a brief statement of the substance of the resolution or ordinance, making reference to this chapter, and shall state that on a day certain, not less than three days after publication of the notice, an application to withdraw from or to become a member of the authority, as the case may be, will be filed with the Secretary of the Commonwealth.

**(d) Filing an application to withdraw or join.**—On or before the day specified in the notice, the municipal authorities shall file an application with the Secretary of the Commonwealth together with proof of publication of the notice required under subsection (c). In the case of a municipality seeking to become a member of the authority, the application shall set forth all of the information required in the case of original incorporation insofar as it applies to the incoming municipality, including the name and address and term of office of the first member or members of the board of the authority from the incoming municipality and, if there is to be a reapportionment of representation or revision of the terms of office of the members of the board, the names, addresses and terms of office of all the members of the board as so reapportioned or revised. The application in all cases shall be executed by the proper officers of the withdrawing or incoming municipality under its municipal seal and shall be joined in by the proper officers of the governing body of the authority and, in the case of a municipality seeking to become a member of the authority, also by the proper officers of each of the municipalities that are then members of the authority pursuant to resolutions by the municipal authorities of the participating municipalities.

**(e) Certification of withdrawal or joinder.**—If the Secretary of the Commonwealth finds that the application conforms to law, he shall, but not prior to the day specified in the notice, endorse his approval of it and, when all proper fees and charges have been paid, shall file the same and issue a certificate of withdrawal or a certificate of joinder, as the case may be, to which shall be attached a copy of the approved application. The withdrawal or joining shall become effective upon the issuing of the certificate.

**Cross References.** Section 5604 is referred to in section 5610 of this title.

**§ 5605. Amendment of articles.**

**(a) Purpose.**—An authority may amend its articles for the following reasons:

- (1) To adopt a new name.
- (2) To modify or add a provision to increase its term of

existence to a date not exceeding 50 years from the date of approval of the articles of amendment.

(3) To change, add to or diminish its powers or purposes or to set forth different or additional powers or purposes.

(4) To increase or decrease the number of members of the board of the authority, to reapportion the representation on the board of the authority and to revise the terms of office of members, all in a manner consistent with the provisions of section 5610 (relating to governing body).

**(b) Procedure.**—Every amendment to the articles shall first be proposed by the board by the adoption of a resolution setting forth the proposed amendment and directing that it be submitted to the governing authorities of the municipality or municipalities composing the authority. The resolution shall contain the language of the proposed amendment to the articles by providing that the articles shall be amended so as to read as set forth in full in the resolution, that any provision of the articles be amended so as to read as set forth in full in the resolution or that the matter stated in the resolution be added to or stricken from the articles. After the amendments have been submitted to the municipality or municipalities, such municipality or municipalities shall adopt or reject such amendment by resolution or ordinance.

**(c) Execution and verification.**—After an amendment has been adopted by the municipality or municipalities, articles of amendment shall be executed under the seal of the authority and verified by two duly authorized officers of the corporation and shall set forth:

(1) The name and location of the registered office of the authority.

(2) The act under which the authority was formed and the date when the original articles were approved and filed.

(3) The resolution or ordinance of the municipality or municipalities adopting the amendment.

(4) The amendment adopted by the municipality or municipalities which shall be set forth in full.

**(d) Advertisement.**—The authority shall advertise its intention to file articles of amendment with the Secretary of the Commonwealth as provided under section 5603 (relating to method of incorporation) for forming an authority. Advertisements shall appear at least three days prior to the day upon which the articles of amendment are presented to the Secretary of the Commonwealth and shall set forth briefly:

(1) The name and location of the registered office of the authority.

(2) A statement that the articles of amendment are to be filed under the provisions of this chapter.

(3) The nature and character of the proposed amendment.

(4) The time when the articles of amendment will be filed with the Secretary of the Commonwealth.

**(e) Filing the amendment.**—The articles of amendment and proof of the required advertisement shall be delivered by the authority or its representative to the Secretary of the Commonwealth. If the Secretary of the Commonwealth finds that the articles conform to law, he shall forthwith, but not prior to the day specified in the advertisement required in subsection (d), endorse his approval of it and, when all fees and charges

have been paid, shall file the articles and issue to the authority or its representative a certificate of amendment to which shall be attached a copy of the approved articles.

**Cross References.** Section 5605 is referred to in section 5607 of this title.

**§ 5606. School district projects.**

**(a) Merger and consolidation authorized.**—Any two or more existing authorities, all the projects of all of which are leased to the same school district, may be merged into one authority, hereinafter designated as the surviving authority, or consolidated into a new authority.

**(b) Articles of merger or consolidation.**—Articles of merger or articles of consolidation, as the case may be, shall first be proposed by the board of school directors of the school district leasing the projects. The governing body of the school district and of any other municipality or municipalities incorporating one or more of the existing authorities shall each adopt a resolution which shall contain the language of the proposed merger or consolidation. The articles of merger or consolidation shall be signed by the proper officers of the respective school districts and other municipalities, if any, and under their respective municipal seals and shall set forth the following:

(1) The name of the surviving or new authority.

(2) The location of the registered office of the surviving or new authority.

(3) The names and addresses and term of office of the members of the board of the surviving or new authority as specified in the plan of merger or consolidation, and the initial terms of office shall be staggered as provided in this chapter with respect to the incorporation of an authority.

(4) A statement indicating the date on which each existing authority was formed and the purpose for which it was formed, taken from the articles of incorporation, the name of the original incorporating school district or districts or other incorporating municipality or municipalities and the name of any successor to any thereof.

(5) The time and place of the meetings of the governing bodies of the school district and other municipalities parties to the plan of merger or consolidation.

(6) A statement of the plan of merger.

(7) Any changes in the articles of incorporation of the surviving authority in the case of a merger and a statement of the articles of incorporation in full in the case of the new authority to be formed, in each case in conformity with the provisions of this chapter relating to the incorporation of authorities, except that any item required to be stated which is covered elsewhere in the articles of merger or consolidation need not be repeated.

**(c) Publication of resolution.**—The reorganized school district and each other municipality party to the plan of merger or consolidation shall cause a notice of the resolution setting forth the merger or consolidation to be published at least one time in the legal periodical of the county or counties in which the surviving authority is to be organized and at least one time in a newspaper published and in general circulation in such

county or counties. The notice shall contain a brief statement of the substance of the resolution, including the substance of the articles of merger making reference to this chapter, and shall state that on a day certain, not less than three days after publication of the notice, articles of merger or consolidation shall be filed with the Secretary of the Commonwealth. The publication shall be sufficient compliance with the laws of this Commonwealth or any existing laws dealing with publication for municipalities.

**(d) Documentation.**—The articles of merger or consolidation shall be filed on or before the day specified in the advertisement with the Secretary of the Commonwealth together with the proof of publication of the notice required under subsection (c).

**(e) Certification of merger or consolidation.**—The Secretary of the Commonwealth shall file the articles of merger or consolidation and the proof of advertisement required in subsection (c) but not prior to the day specified in the advertisement, certify the date of such filing when all fees and charges have been paid and issue to the surviving or new authority or its representative a certificate of merger or consolidation to which shall be attached a copy of the filed articles of merger or consolidation.

**(f) Filing the articles of merger or consolidation.**—Upon the filing of the articles of merger or the articles of consolidation by the Secretary of the Commonwealth, the merger or consolidation shall be effective, and in the case of a consolidation the new authority shall come into existence, and in either case the articles of merger and consolidation shall constitute the articles of incorporation of the surviving or new authority, and the reorganized school district, lessee of the projects, shall be deemed to be the incorporating municipality of the authority.

**(g) Creation of surviving or new authority.**—Upon the merger or consolidation becoming effective, the several existing authorities to the plan of merger or consolidation shall become a single authority, which in the case of a merger shall be that authority designated in the articles of merger as the surviving authority and in the case of a consolidation shall be a new authority as provided in the articles of consolidation. The separate existence of all existing authorities named in the articles of merger or consolidation shall cease, except that of the surviving authority in the case of a merger.

**(h) Disposition of property and accounts.**—All of the property, real, personal and mixed, and all interests therein of each of the existing authorities named in the plan of merger or consolidation, all debts due and whatever amount due to any of them, including their respective right, title and interest in and to all lease rentals, sinking funds on deposit, all funds deposited under lease or trust instruments shall be taken and deemed to be transferred to and vested in the surviving or new authority as the case may be without further act or deed.

**(i) Continuation of contracts.**—The surviving authority or the new authority shall be responsible for the liabilities and obligations of each of the existing authorities so merged or consolidated but shall be subject to the same limitations, pledges, assignments, liens, charges, terms and conditions as to

revenues and restrictions as to and leases of properties as were applicable to each existing authority. The liabilities of the merging or consolidating authorities of the members of their boards or officers shall not be affected nor shall the rights of creditors thereof or any persons dealing with such authorities or any liens upon the property of such authorities or any outstanding bonds be impaired by the merger or consolidation, and any claim existing or action or proceeding pending by or against any such authorities shall be prosecuted to judgment as if such merger or consolidation had not taken place, or the surviving authority or the new authority may be proceeded against or substituted in its place.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsec. (d), retroactive to June 19, 2001.

**§ 5607. Purposes and powers.**

**(a) Scope of projects permitted.**—Every authority incorporated under this chapter shall be a body corporate and politic and shall be for the purposes of financing working capital; acquiring, holding, constructing, financing, improving, maintaining and operating, owning or leasing, either in the capacity of lessor or lessee, projects of the following kind and character and providing financing for insurance reserves:

(1) Equipment to be leased by an authority to the municipality or municipalities that organized it or to any municipality or school district located wholly or partially within the boundaries of the municipality or municipalities that organized it.

(2) Buildings to be devoted wholly or partially for public uses, including public school buildings, and facilities for the conduct of judicial proceedings and for revenue-producing purposes.

(3) Transportation, marketing, shopping, terminals, bridges, tunnels, flood control projects, highways, parkways, traffic distribution centers, parking spaces, airports and all facilities necessary or incident thereto.

(4) Parks, recreation grounds and facilities.

(5) Sewers, sewer systems or parts thereof.

(6) Sewage treatment works, including works for treating and disposing of industrial waste.

(7) Facilities and equipment for the collection, removal or disposal of ashes, garbage, rubbish and other refuse materials by incineration, landfill or other methods.

(8) Steam heating plants and distribution systems.

(9) Incinerator plants.

(10) Waterworks, water supply works, water distribution systems.

(11) Facilities to produce steam which is used by the authority or is sold on a contract basis for industrial or similar use or on a sale-for-resale basis to one or more entities authorized to sell steam to the public, provided that such facilities have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing such authority and that the approval does not obligate the taxing power of the municipality in any way.

(12) Facilities for generating surplus electric power which are related to incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants pursuant, where applicable, to section 3 of the Federal Power Act (41 Stat. 1063, 16 U.S.C. § 796) and section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617, 16 U.S.C. § 824a-3) or Title IV of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617, 16 U.S.C. §§ 2701 to 2708) if:

(i) electric power generated from the facilities is sold or distributed only on a sale-for-resale basis to one or more entities authorized to sell electric power to the public;

(ii) the facilities have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing the authority and the approval does not obligate the taxing power of the municipality in any way; and

(iii) the incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants are or will be located within or contiguous with a county in which at least one of the municipalities organizing the authority is located, except that this subparagraph shall not apply to incinerator plants, dams, water supply works, water distribution systems or sewage treatment plants located in any county which have been or will be constructed by or acquired by the authority to perform functions the primary purposes of which are other than that of generation of electric power for which the authority has been organized.

(13) Swimming pools, playgrounds, lakes and low-head dams.

(14) Hospitals and health centers.

(15) Buildings and facilities for private, nonprofit, nonsectarian secondary schools, colleges and universities, State-related universities and community colleges, which are determined by the authority to be eligible educational institutions, provided that such buildings and facilities shall have been approved by resolution or ordinance adopted by the governing body of the municipality or municipalities organizing the authority and that the approval does not obligate the taxing power of the governing body in any way.

(16) Motor buses for public use, when such motor buses are to be used within any municipality, and subways.

(17) Industrial development projects, including, but not limited to, projects to retain or develop existing industries and the development of new industries, the development and administration of business improvements and administrative services related thereto.

**(b) Limitations.**—This section is subject to the following limitations:

(1) An authority created by a school district or school districts shall have the power only to acquire, hold, construct, improve, maintain, operate and lease public school buildings and other school projects acquired, constructed or improved for public school purposes.

(2) The purpose and intent of this chapter being to

benefit the people of the Commonwealth by, among other things, increasing their commerce, health, safety and prosperity and not to unnecessarily burden or interfere with existing business by the establishment of competitive enterprises, none of the powers granted by this chapter shall be exercised in the construction, financing, improvement, maintenance, extension or operation of any project or projects or providing financing for insurance reserves which in whole or in part shall duplicate or compete with existing enterprises serving substantially the same purposes. This limitation shall not apply to the exercise of the powers granted under this section:

(i) for facilities and equipment for the collection, removal or disposal of ashes, garbage, rubbish and other refuse materials by incineration, landfill or other methods if each municipality organizing or intending to use the facilities of an authority having such powers shall declare by resolution or ordinance that it is desirable for the health and safety of the people of such municipality that it use the facilities of the authority and state if any contract between such municipality and any other person, firm or corporation for the collection, removal or disposal of ashes, garbage, rubbish and other refuse material has by its terms expired or is terminable at the option of the municipality or will expire within six months from the date such ordinance becomes effective;

(ii) for industrial development projects if the authority does not develop industrial projects which will compete with existing industries;

(iii) for authorities created for the purpose of providing business improvements and administrative services if each municipality organizing an authority for such a project shall declare by resolution or ordinance that it is desirable for the entire local government unit to improve the business district;

(iv) to hospital projects or health centers to be leased to or financed with loans to public hospitals, nonprofit corporation health centers or nonprofit hospital corporations serving the public or to school building projects and facilities to be leased to or financed with loans to private, nonprofit, nonsectarian secondary schools, colleges and universities, State-related universities and community colleges or to facilities, as limited under the provisions of this section, to produce steam or to generate electric power if each municipality organizing an authority for such a project shall declare by resolution or ordinance that it is desirable for the health, safety and welfare of the people in the area served by such facilities to have such facilities provided by or financed through an authority;

(v) to provide financing for insurance reserves if each municipality or authority intending to use any proceeds thereof shall declare by resolution or ordinance that it is desirable for the health, safety and welfare of the people in such local government unit or served by such authority; or

(vi) to projects for financing working capital.

(3) It is the intent of this chapter in specifying and defining the authorized purposes and projects of an authority to permit the authority to benefit the people of this Commonwealth by, among other things, increasing their commerce, health, safety and prosperity while not unnecessarily burdening or interfering with any municipality which has not incorporated or joined that authority. Therefore, notwithstanding any other provisions of this chapter, an authority shall not have as its purpose and shall not undertake as a project solely for revenue-producing purposes the acquiring of buildings, facilities or tracts of land which in the case of an authority incorporated or joined by a county or counties are located either within or outside the boundaries of the county or counties and in the case of all other authorities are located outside the boundaries of the municipality or municipalities that incorporated or joined the authority unless either:

(i) the governing body of each municipality in which the project will be undertaken has by resolution evidenced its approval; or

(ii) in cases where the property acquired is not subject to tax abatement, the authority covenants and agrees with each municipality in which the authority will acquire real property as part of the project either to make annual payments in lieu of real estate taxes and special assessments for amounts and time periods specified in the agreement or to pay annually the amount of real estate taxes and special assessments which would be payable if the real property so acquired were fully taxable and subject to special assessments.

**(c) Effect of specificity.**—The municipality or municipalities organizing such an authority may, in the resolution or ordinance signifying their intention so to do or from time to time by subsequent resolution or ordinance, specify the project or projects to be undertaken by the authority, and no other projects shall be undertaken by the authority than those so specified. If the municipal authorities organizing an authority fail to specify the project or projects to be undertaken, then the authority shall be deemed to have all the powers granted by this chapter.

**(d) Powers.**—Every authority may exercise all powers necessary or convenient for the carrying out of the purposes set forth in this section, including, but without limiting the generality of the foregoing, the following rights and powers:

(1) To have existence for a term of 50 years and for such further period or periods as may be provided in articles of amendment approved under section 5605(e) (relating to amendment of articles).

(2) To sue and be sued, implead and be impleaded, complain and defend in all courts.

(3) To adopt, use and alter at will a corporate seal.

(4) 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 acquired by it.

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

(6) To finance projects by making loans which may be evidenced by and secured as may be provided in loan agreements, mortgages, security agreements or any other contracts, instruments or agreements, which contracts, instruments or agreements may contain such provisions as the authority shall deem necessary or desirable for the security or protection of the authority or its bondholders.

(7) To make bylaws for the management and regulation of its affairs.

(8) To appoint officers, agents, employees and servants, to prescribe their duties and to fix their compensation.

(9) To fix, alter, charge and collect rates and other charges in the area served by its facilities at reasonable and uniform rates to be determined exclusively by it for the purpose of providing for the payment of the expenses of the authority, the construction, improvement, repair, maintenance and operation of its facilities and properties and, in the case of an authority created for the purpose of making business improvements or providing administrative services, a charge for such services which is to be based on actual benefits and which may be measured on, among other things, gross sales or gross or net profits, the payment of the principal of and interest on its obligations and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations, or with a municipality and to determine by itself exclusively the services and improvements required to provide adequate, safe and reasonable service, including extensions thereof, in the areas served. If the service area includes more than one municipality, the revenues from any project shall not be expended directly or indirectly on any other project unless such expenditures are made for the benefit of the entire service area. Any person questioning the reasonableness or uniformity of a rate fixed by an authority or the adequacy, safety and reasonableness of the authority's services, including extensions thereof, may bring suit against the authority in the court of common pleas of the county where the project is located or, if the project is located in more than one county, in the court of common pleas of the county where the principal office of the project is located. The court of common pleas shall have exclusive jurisdiction to determine questions involving rates or service. Except in municipal corporations having a population density of 300 persons or more per square mile, all owners of real property in eighth class counties may decline in writing the services of a solid waste authority.

(10) In the case of an authority which has agreed to provide water service through a separate meter and separate service line to a residential dwelling unit in which the owner does not reside, to impose and enforce the owner's duty to pay a tenant's bill for service rendered to the tenant by the authority only if the authority notifies the owner and the tenant within 30 days after the bill first becomes overdue. Notification shall be provided by first class mail

to the address of the owner provided to the authority by the owner and to the billing address of the tenant, respectively. Nothing in this paragraph shall be construed to require an authority to terminate service to a tenant, and the owner shall not be liable for any service which the authority provides to the tenant 90 or more days after the tenant's bill first becomes due unless the authority has been prevented by court order from terminating service to that tenant.

(11) In the case of an authority which has agreed to provide sewer service to a residential dwelling unit in which the owner does not reside, to impose and enforce the owner's duty to pay a tenant's bill for service rendered by the authority to the tenant. The authority shall notify the owner and the tenant within 30 days after the tenant's bill for that service first becomes overdue. Notification shall be provided by first class mail to the address of the owner provided to the authority by the owner and to the billing address of the tenant, respectively. Nothing in this paragraph shall be construed to relieve the owner of liability for such service unless the authority fails to provide the notice required in this paragraph.

(12) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations, hereinafter called bonds, of the authority. Bonds shall have a maturity date not longer than 40 years from the date of issue except that no refunding bonds shall have a maturity date later than the life of the authority; also, to secure the payment of the bonds or any part thereof by pledge or deed of trust of all or any of its revenues and receipts; to make agreements with the purchasers or holders of the bonds or with others in connection with any bonds, whether issued or to be issued, as the authority shall deem advisable; and in general to provide for the security for the bonds and the rights of the bondholders. In respect to any project constructed and operated under agreement with any authority or any public authority of any adjoining state, to borrow money and issue notes, bonds and other evidences of indebtedness and obligations jointly with that authority. Notwithstanding any of the foregoing, no authority shall borrow money on obligations to be paid primarily out of lease rentals or other current revenues other than charges made to the public for the use of the capital projects financed if the net debt of the lessee municipality or municipalities shall exceed any limit provided by any law of the Commonwealth.

(13) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(14) 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, the Commonwealth or a municipality, school district, corporation or authority.

(15) To have the power of eminent domain.

(16) 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.

(17) To do all acts and things necessary or convenient 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 other law.

(18) To contract with any municipality, corporation or a public authority of this and an adjoining state on terms as the authority shall deem proper for the construction and operation of any project which is partly in this Commonwealth and partly in the adjoining state.

(19) To enter into contracts to supply water and other services to and for municipalities that are not members of the authority or to and for the Commonwealth, municipalities, school districts, persons or authorities and fix the amount to be paid therefor.

(20) (i) To make contracts of insurance with an insurance company, association or exchange authorized to transact business in this Commonwealth, insuring its employees and appointed officers and officials under a policy or policies of insurance covering life, accidental death and dismemberment and disability income. Statutory requirements for such insurance, including, but not limited to, requisite number of eligible employees, appointed officers and officials, as provided for in section 621.2 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, and sections 1, 2, 6, 7 and 9 of the act of May 11, 1949 (P.L.1210, No.367), known as the Group Life Insurance Policy Law, shall be met.

(ii) To make contracts with an insurance company, association or exchange or any hospital plan corporation or professional health service corporation authorized to transact business in this Commonwealth insuring or covering its employees and their dependents but not its appointed officers and officials nor their dependents for hospital and medical benefits and to contract for its employees but not its appointed officers and officials with an insurance company, association or exchange authorized to transact business in this Commonwealth granting annuities or to establish, maintain, operate and administer its own pension plan covering its employees but not its appointed officers and officials.

(iii) For the purposes set forth under this paragraph, to agree to pay part or all of the cost of this insurance, including the premiums or charges for carrying these contracts, and to appropriate out of its treasury any money necessary to pay such costs, premiums or charges. The proper officers of the authority who are authorized to enter into such contracts are authorized, enabled and permitted to deduct from the officers' or employees' pay, salary or compensation that part of the premium or cost which is payable by the officer or employee and as may be so authorized by the officer or employee in writing.

(21) To charge the cost of construction of any sewer or water main constructed by the authority against the properties benefited, improved or accommodated thereby to the

extent of such benefits. These benefits shall be assessed in the manner provided under this chapter for the exercise of the right of eminent domain.

(22) To charge the cost of construction of a sewer or water main constructed by the authority against the properties benefited, improved or accommodated by the construction according to the foot front rule. Charges shall be based upon the foot frontage of the properties benefited and shall be a lien against such properties. Charges may be assessed and collected and liens may be enforced in the manner provided by law for the assessment and collection of charges and the enforcement of liens of the municipality in which such authority is located. No charge shall be assessed unless prior to the construction of a sewer or water main the authority submitted the plan of construction and estimated cost to the municipality in which the project is to be undertaken and the municipality approved it. The properties benefited, improved or accommodated by the construction may not be charged an aggregate amount in excess of the approved estimated cost.

(23) To require the posting of financial security to insure the completion in accordance with the approved plat and with the rules and regulations of the authority of any water mains or sanitary sewer lines, or both, and related apparatus and facilities required to be installed by or on behalf of a developer under an approved land development or subdivision plat as these terms are defined under the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code. If financial security is required by the authority and without limitation as to other types of financial security which the authority may approve, which approval shall not be unreasonably withheld, federally chartered or Commonwealth-chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in these lending institutions shall be deemed acceptable financial security. Financial security shall be posted with a bonding company or federally chartered or Commonwealth-chartered lending institution chosen by the party posting the financial security if the bonding company or lending institution is authorized to conduct business within this Commonwealth. The bond or other security shall provide for and secure to the authority the completion of required improvements within one year from the date of posting of the security. The amount of financial security shall be equal to 110% of the cost of the required improvements for which financial security is to be posted. The cost of required improvements shall be established by submitting to the authority a bona fide bid from a contractor chosen by the party posting the financial security. In the absence of a bona fide bid, the cost shall be established by an estimate prepared by the authority's engineer. If the party posting the financial security requires more than one year from the date of posting the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from the initial posting date or to 110% of the cost of completing the

required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure. As the work of installing the required improvements proceeds, the party posting the financial security may request the authority to release or authorize the release of, from time to time, portions of the financial security necessary to pay the contractor performing the work. Release requests shall be in writing addressed to the authority, and the authority shall have 45 days after receiving a request to ascertain from the authority engineer, certified in writing, that the portion of the work has been completed in accordance with the approved plat. Upon receiving written certification, the authority shall authorize release by the bonding company or lending institution of an amount estimated by the authority engineer to fairly represent the value of the improvements completed. If the authority fails to act within the 45-day period, it shall be deemed to have approved the requested release of funds. The authority may, prior to final release at the time of completion and certification by its engineer, require retention of 10% of the estimated cost of improvements. If the authority accepts dedication of all or some of the required improvements following completion, it may require the posting of financial security to secure structural integrity of the improvements as well as the functioning of the improvements in accordance with the design and specifications as depicted on the final plat and the authority's rules and regulations. This financial security shall expire not later than 18 months from the date of acceptance of dedication and shall be of the same type as set forth in this paragraph with regard to that which is required for installation of the improvements, except that it shall not exceed 15% of the actual cost of installation of the improvements. Any inconsistent ordinance, resolution or statute is null and void.

(24) To charge enumerated fees to property owners who desire to or are required to connect to the authority's sewer or water system. Fees shall be based upon the duly adopted fee schedule which is in effect at the time of payment and shall be payable at the time of application for connection or at a time to which the property owner and the authority agree. In the case of projects to serve existing development, fees shall be payable at a time to be determined by the authority. An authority may require that no capacity be guaranteed for a property owner until the tapping fees have been paid or secured by other financial security. The fees shall be in addition to any charges assessed against the property in the construction of a sewer or water main by the authority under paragraphs (21) and (22) as well as any other user charges imposed by the authority under paragraph (9) but shall not include costs included in the calculation of such fees.

(i) The fees may include any of the following fee components if they are separately set forth in a resolution adopted by the authority to establish these fees:

(A) Connection fee. It may not exceed an amount

based upon the actual cost of the connection of the property extending from the authority's main to the property line or curb stop of the property connected. The authority may also base the connection fee upon an average cost for previously installed connections of similar type and size. In lieu of payment of the fees, an authority may require the construction and dedication of those facilities by the property owner who requested the connection.

(B) Customer facilities fee. It may not exceed an amount based upon the actual cost of facilities serving the connected property from the property line or curb stop to the proposed dwelling or building to be served. The fee shall be chargeable only if the authority installs the customer facilities. In lieu of payment of the customer facilities fee, an authority may require the construction of those facilities by the property owner who requests customer facilities. In the case of water service, the fee may include the cost of a water meter and installation if the authority provides or installs the water meter. If the property connected or to be connected with the sewer system of the authority is not equipped with a water meter, the authority may install a meter at its own cost and expense. If the property is supplied with water from the facilities of a public water supply agency, the authority shall not install a meter without the consent and approval of the public water supply agency.

(C) Tapping fee. It may not exceed an amount based upon some or all of the following fee components if they are separately set forth in the resolution adopted by the authority to establish these fees. In lieu of payment of this fee, an authority may require the construction and dedication of only such capacity, distribution-collection or special purpose facilities necessary to supply service to the property owner or owners.

(I) Capacity part. The fee may not exceed an amount that is based upon the cost of capacity-related facilities, including, but not limited to, source of supply, treatment, pumping, transmission, trunk, interceptor and outfall mains, storage, sludge treatment or disposal, interconnection or other general system facilities. Facilities may include those that provide existing service or will provide future service. The cost of existing facilities, excluding facilities contributed to the authority by any person, government or agency, shall be based upon their replacement cost or upon historical cost trended to current cost using published cost indexes or upon the historical cost plus interest and other financing fees paid on bonds financing such facilities. In the case of existing facilities, outstanding debt related to the facilities shall be subtracted from the

cost, but debt may not be subtracted which is attributable to facilities exclusively serving new customers. Under all cost approaches, the cost of capacity-related facilities shall be reduced by the amount of grants or capital contributions which have financed them. The capacity part of the tapping fee per unit of capacity required by the new customer may not exceed the cost of the facilities divided by the design capacity. An authority may allocate its capacity-related facilities to different sections or districts of its system and may impose additional capacity-related tapping fees on specific groups of existing customers such as commercial and industrial customers in conjunction with additional capacity requirements of those customers. In the case of facilities to be constructed or acquired, the cost shall not exceed their reasonable estimated cost set forth in a duly adopted annual budget or a five-year capital improvement plan, and the authority in furtherance of the facilities must take any action as follows:

- (a) obtain financing for the facilities;
- (b) enter into a contract obligating the authority to construct or pay for the cost of construction of the facilities or its portion thereof in the event that multiple parties are constructing the facilities;
- (c) obtain a permit for the facilities;
- (d) spend substantial sums or resources in furtherance of the facilities;
- (e) enter into a contract obligating the authority to purchase or acquire facilities owned by another;
- (f) prepare an engineering feasibility study specifically related to the facilities, which study recommends the construction of the facilities within a five-year period; or
- (g) enter into a contract for the design of the facilities.

(II) Distribution or collection part. The fee may not exceed an amount based upon the cost of distribution or collection facilities required to provide service, such as mains, hydrants and pumping stations. Facilities may include those that provide existing service or those that will provide future service. The cost of existing facilities, excluding facilities contributed to the authority by any person, government or agency, shall be based upon their replacement cost or upon historical cost trended to current cost using published cost indexes or upon the historical cost plus interest and other financing fees paid on bonds financing such facilities. In the case of existing facilities, outstanding debt related to the facilities shall be subtracted

from the cost, but debt may not be subtracted which is attributable to facilities exclusively serving new customers. In the case of facilities to be constructed or acquired, the cost shall not exceed their reasonable estimated cost. Under all cost approaches, the cost of distribution or collection facilities shall be reduced by the amount of grants or capital contributions which have financed them. The distribution or collection part of the tapping fee per unit of capacity required by the new customer may not exceed the cost of the facilities divided by the design capacity. An authority may allocate its distribution-related or collection-related facilities to different sections or districts of its system and may impose additional distribution-related or collection-related tapping fees on specific groups of existing customers such as commercial and industrial customers in conjunction with additional capacity requirements of those customers.

(III) Special purpose part. Fees for special purpose facilities shall be applicable only to a particular group of customers or for serving a particular purpose or a specific area based upon the cost of the facilities, including, but not limited to, booster pump stations, fire service facilities and industrial wastewater treatment facilities. Facilities may include those that provide existing service or those that will provide future service. The cost of existing facilities, excluding facilities contributed to the authority by any person, government or agency, shall be based upon their replacement cost or upon historical cost trended to current cost using published cost indexes or upon the historical cost plus interest and other financing fees paid on bonds financing such facilities. In the case of existing facilities, outstanding debt related to the facilities shall be subtracted from the cost, but debt may not be subtracted which is attributable to facilities exclusively serving new customers. In the case of facilities to be constructed or acquired, the cost shall not exceed their reasonable estimated cost. Under all cost approaches, the cost of special purpose facilities shall be reduced by the amount of grants or capital contributions which have financed such facilities. The special purpose part of the tapping fee per unit of capacity required by the new customer may not exceed the cost of the facilities divided by the design capacity. An authority may allocate its special purpose facilities to different sections or districts of its system and may impose additional special purpose tapping fees on specific groups of existing customers such as commercial and

industrial customers in conjunction with additional capacity requirements of those customers.

(IV) Reimbursement component. An amount necessary to recapture the allocable portion of facilities in order to reimburse the property owner or owners at whose expense the facilities were constructed as set forth in paragraphs (31) and (32).

(V) Calculation of tapping fee components.

(a) In arriving at the cost to be included in the tapping fee components, the same cost may not be included in more than one part of the tapping fee.

(b) No tapping fee may be based upon or include the cost of expanding, replacing, updating or upgrading facilities serving existing customers in order to meet stricter efficiency, environmental, regulatory or safety standards or to provide better service to or meet the needs of existing customers.

(c) The cost used in calculating tapping fees shall not include maintenance and operation expenses.

(d) As used in this subclause, "maintenance and operation expenses" are those expenditures made during the useful life of a sewer or water system for labor, materials, utilities, equipment accessories, appurtenances and other items which are necessary to manage and maintain the system capacity and performance and to provide the service for which the system was constructed.

(ii) Every authority charging a tapping, customer facilities or connection fee shall do so at a public meeting of the authority. The authority shall have available for public inspection a detailed itemization of all calculations, clearly showing the manner in which the fees were determined. A revised tapping, customer facilities or connection fee may be imposed upon those who subsequently connect to the system.

(iii) No authority may impose a connection fee, customer facilities fee, tapping fee or similar fee except as provided specifically under this section.

(iv) A municipality or municipal authority with available excess sewage capacity, wishing to sell a portion of that capacity to another municipality or municipal authority, may not charge a higher cost for the capacity portion of the tapping fee as the selling entity charges to its customers for the capacity portion of the tapping fee. In turn, the municipality or municipal authority buying this excess capacity may not charge a higher cost for the capacity portion of the tapping fee to its residential customers than that charged to them by the selling entity.

(v) As used in this paragraph, the term "residential customer" shall also include those developing property

for residential dwellings that require multiple tapping fee permits. This paragraph shall not be applicable to intermunicipal or interauthority agreements relative to the purchase of excess capacity by an authority or municipality in effect prior to February 20, 2001.

(25) To construct tunnels, bridges, viaducts, underpasses or other structures and relocate the facilities of public service companies to effect or permit the abolition of a grade crossing or grade crossings subject to approval of and in accordance with a duly issued order of the Pennsylvania Public Utility Commission. A commission order shall provide that costs payable by a public utility, political subdivision, the Commonwealth or others shall be payable to the authority. Before proceedings are instituted before the commission, the authority and the public utilities or the political subdivisions shall enter an agreement to provide for the conveyance to the authority of title to the land, structure or improvement involved as security for bonds issued to finance the improvement and the leasing of the improvement to the utility or utilities or the political subdivision or subdivisions involved on such terms as will provide for interest and sinking fund charges on the bonds issued for the improvement.

(26) To appoint police officers who shall have the same rights as other peace officers in this Commonwealth with respect to the property of the authority.

(27) (i) In the case of an authority created to provide business improvements and administrative services, to impose an assessment on each benefited property within a business improvement district. This assessment shall be based upon the estimated cost of the improvements or services in the district stated in the planning or feasibility study and shall be determined by one of the following methods:

(A) By an assessment determined by multiplying the total improvement or service cost by the ratio of the assessed value of the benefited property to the total assessed valuation of all benefited properties in the district.

(B) By an assessment upon the several properties in the district in proportion to benefits as ascertained by viewers appointed in accordance with municipal law.

(ii) An assessment or charge may not be made unless:

(A) An authority submits a plan for business improvements and administrative services, together with estimated costs and the proposed method of assessments for business improvements and charges for administrative services, to the municipality in which the project is to be undertaken.

(B) The municipality approves the plan, the estimated costs and the proposed method of assessment and charges.

(iii) An authority may not assess charges against the improved properties in an aggregate amount in excess of the estimated cost.

(iv) An authority may by resolution authorize

payment of an assessment or charge in equal, annual or more frequent installments over a fixed period of time and bearing interest of 6% or less. If bonds, notes or guarantees are used to raise revenue to provide for the cost of improvements or services, the installments shall not be payable beyond the term for which the bonds, notes or guarantees are payable.

(v) Claims to secure the payment of assessments shall be entered in the prothonotary's office of the county at the same time and in the same form and shall be collected in the same manner as municipal claims are filed and collected notwithstanding the provisions of this section as to installment payments.

(vi) In case of default of 60 days or more after an installment is due, the entire assessment and interest shall be due.

(vii) An owner of property against whom an assessment has been made may pay the assessment in full at any time along with accrued interest and costs. Upon proof of payment the lien shall be discharged.

(28) To adopt rules and regulations to provide for the safety of persons using facilities of an airport authority pertaining to vehicular traffic control. Police officers appointed under paragraph (26) shall enforce them.

(29) To provide financing for insurance reserves by making loans evidenced and secured by loan agreements, security agreements or other instruments or agreements. These instruments or agreements may contain provisions the authority deems necessary or desirable for the security or protection of the authority or its bondholders.

(30) Where a sewer or water system of an authority is to be extended at the expense of the owner of properties or where the authority otherwise would construct customer facilities referred to in paragraph (24), other than water meter installation, to allow a property owner to construct the extension or install the customer facilities himself or through a subcontractor approved by the authority, which approval shall not be unreasonably withheld. The authority may perform the construction itself only if the authority provides the extension or customer facilities at a lower cost and within the same timetable specified or proposed by the property owner or his approved subcontractor. Construction by the property owner shall be in accordance with an agreement for the extension of the authority's system and plans and specifications approved by the authority and shall be undertaken only pursuant to the existing regulations, requirements, rules and standards of the authority applicable to such construction. Construction shall be subject to inspection by an inspector authorized to approve similar construction and employed by the authority during construction. When a main is to be extended at the expense of the owner of properties, the property owner may be required to deposit with the authority, in advance of construction, the authority's estimated reasonable and necessary cost of reviewing plans, construction inspections, administrative, legal and engineering services. The authority may require that construction shall not commence until the property owner

has posted appropriate financial security in accordance with paragraph (23). The authority may require the property owner to reimburse it for reasonable and necessary expenses it incurred as a result of the extension. If an independent firm is employed for engineering review of the plans and the inspection of improvements, reimbursement for its services shall be reasonable and in accordance with the ordinary and customary fees charged by the independent firm for work performed for similar services in the community. The fees may not exceed the rate charged by the independent firm to the authority when fees are not reimbursed or otherwise imposed on applicants. Upon completion of construction, the property owner shall dedicate and the authority shall accept the extension of the authority's system if dedication of facilities and the installation complies with the plans, specifications, regulations of the authority and the agreement. An authority may provide in its regulations those facilities which, having been constructed at the expense of the owner of properties, the authority will accept as a part of its system.

(31) Where a property owner constructs or causes to be constructed at his expense any extension of a sewer or water system of an authority, the authority shall provide for the reimbursement to the property owner when the owner of another property not in the development for which the extension was constructed connects a service line directly to the extension within ten years of the date of the dedication of the extension to the authority in accordance with the following provisions:

(i) Reimbursement shall be equal to the distribution or collection part of each tapping fee collected as a result of subsequent connections. An authority may deduct from each reimbursement payment an amount equal to 5% of it for administrative expenses and services rendered in calculating, collecting, monitoring and disbursing the reimbursement payments to the property owner.

(ii) Reimbursement shall be limited to those lines which have not previously been paid for by the authority.

(iii) The authority shall, in preparing necessary reimbursement agreements with a property owner for whose benefit reimbursement will be provided, attach as an exhibit an itemized listing of all sewer and water facilities for which reimbursement shall be provided.

(iv) The total reimbursement which a property owner may receive may not exceed the cost of labor and material, engineering design charges, the cost of performance and maintenance bonds, authority review and inspection charges as well as flushing and televising charges and any and all charges involved in the acceptance and dedication of such facilities by the authority, less the amount which would be chargeable to the property owner based upon the authority's collection and distribution tapping fees which would be applicable to all lands of the property owner directly or indirectly served through extensions if the property owner did not fund the extension.

(v) An authority shall notify by certified mail, to

the last known address, the property owner for whose benefit a reimbursement shall apply. This shall be done within 30 days of the authority's receipt of the reimbursement payment. If a property owner does not claim a reimbursement payment within 120 days after the mailing of the notice, the payment shall become the sole property of the authority with no further obligation on the part of the authority to refund the payment to the property owner.

(32) If a sewer system or water system or any part or extension owned by an authority has been constructed at the expense of a private person or corporation, the authority may charge a tapping fee. The authority shall refund the tapping fee or any part of the fee to the person or corporation who paid for the construction of the sewer or water system or any part or extension of it.

(33) Provisions of paragraphs (30), (31) and (32) shall apply to residential customers in a municipality where the sewer service is being purchased by the municipality or sewer authority from another municipality or sewer authority having excess sewage capacity.

**(e) Prohibition.-**

(1) An authority may not pledge the credit or taxing power of the Commonwealth or its political subdivision.

(2) The obligations of an authority are not obligations of the Commonwealth or its political subdivision.

(3) Neither the Commonwealth nor a political subdivision shall be liable for the payment of principal of or interest on obligations of an authority.

**(f) Authorization to control airports.-**Nothing in this chapter shall be construed to prevent an authority which owns or operates an airport as a project from leasing airport land on a short-term or long-term basis for commercial, industrial or residential purposes when the land is not immediately needed for aviation or aeronautical purposes in the judgment of the authority.

**(g) Authorization to make business improvements and provide administrative services.-**An authority may be established to make business improvements or provide administrative services in districts designated by a municipality or by municipalities acting jointly and zoned commercial or used for general commercial purposes or in contiguous areas if the inclusion of a contiguous area is directly related to the improvements and services proposed by the authority. The authority shall make planning or feasibility studies to determine needed improvements or administrative services.

(1) The authority shall be required to hold a public hearing on the proposed improvement or service, the estimated costs thereof and the proposed method of assessment and charges. Notice of the hearing shall be advertised at least ten days before it occurs in a newspaper whose circulation is within the municipality where the authority is established. At the public hearing any interested party may be heard.

(2) Written notice of the proposed improvement or service, its estimated cost, the proposed method of assessment and charges and project cost to individual property owners shall be given to each property owner and

commercial lessee in benefited properties in the district at least 30 days prior to the public hearing.

(3) The authority shall take no action on proposed improvement or service if objection is made in writing by persons representing the ownership of one-third of the benefited properties in the district or by property owners of the proposed district whose property valuation as assessed for taxable purposes shall amount to more than one-third of the total property valuation of the district. Objection shall be made within 45 days after the conclusion of the public hearing. Objections must be in writing, signed and filed in the office of the governing body of the municipality in which the district is located and in the registered office of the authority.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsecs. (a) intro. par., (d)(9), (10), (11), (22), (23), (24)(i)(B) and (v) and (32), (e)(1) and (g) intro. par., retroactive to June 19, 2001.

**Cross References.** Section 5607 is referred to in section 5613 of this title.

**§ 5608. Bonds.**

**(a) Authorization.—**

(1) A bond must be authorized by resolution of the board. The resolution may specify all of the following:

(i) Series.

(ii) Date of maturity not exceeding 40 years from date of issue.

(iii) Interest.

(iv) Denomination.

(v) Form, either coupon or fully registered without coupons.

(vi) Registration, exchangeability and interchangeability privileges.

(vii) Medium of payment and place of payment.

(viii) Terms of redemption not exceeding 105% of the principal amount of the bond.

(ix) Priorities in the revenues or receipts of the authority.

(2) A bond must be signed by or shall bear the facsimile signature of such officers as the authority determines. Coupon bonds must have attached interest coupons bearing the facsimile signature of the treasurer of the authority as prescribed in the authorizing resolution. A bond may be issued and delivered notwithstanding that one or more of the signing officers or the treasurer has ceased to be an officer when the bond is actually delivered. A bond must be authenticated by an authenticating agent, a fiscal agent or a trustee, if required by the authorizing resolution.

(3) A bond may be sold at public or private sale for a price determined by the authority.

(4) Pending the preparation of a definitive bond, interim receipts or temporary bonds with or without coupons may be issued to the purchaser and may contain terms and conditions as the authority determines.

**(b) Provisions.—**A resolution authorizing a bond may contain provisions which shall be part of the contract with the bond

holder as to the following:

(1) Pledging the full faith and credit of the authority but not of the Commonwealth or any political subdivision for the bond or restricting the obligation of the authority on the to all or any of the revenue of the authority from all or any projects or properties.

(2) The construction, financing, improvement, operation, extension, enlargement, maintenance and repair of the project, the financing for insurance reserves and the duties of the authority with reference to these matters.

(3) Terms and provisions of the bond.

(4) Limitations on the purposes to which the proceeds of the bond or of a loan or grant by the United States may be applied.

(5) Rate of tolls and other charges for use of the facilities of or for the services rendered by the authority.

(6) The setting aside, regulation and disposition of reserves and sinking funds.

(7) Limitations on the issuance of additional bonds.

(8) Terms and provisions of any deed of trust or indenture securing the bond or under which any deed of trust or indenture may be issued.

(9) Other additional agreements with the holder of the bond.

**(c) Deeds of trust.**—An authority may enter into any deed of trust, indenture or other agreement with any bank or trust company or other person in the United States having power to enter into such an arrangement, including any Federal agency, as security for a bond and may assign and pledge all or any of the revenues or receipts of the authority under such deed, indenture or agreement. The deed of trust, indenture or other agreement may contain provisions as may be customary in such instruments or as the authority may authorize, including provisions as to the following:

(1) Construction, financing, improvement, operation, maintenance and repair of a project; financing for insurance reserves; and the duties of the authority with reference to these matters.

(2) Application of funds and the safeguarding of funds on hand or on deposit.

(3) Rights and remedies of trustee and bondholder, including restrictions upon the individual right of action of a bondholder.

(4) Terms and provisions of the bond or the resolution authorizing the issuance of the bond.

**(d) Negotiability.**—A bond shall have all the qualities of negotiable instruments under 13 Pa.C.S. Div. 3 (relating to negotiable instruments).

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsecs. (a)(1) intro. part. and (iii), (2) and (3), (b)(1) and (2) and (c), retroactive to June 19, 2002.

**Cross References.** Section 5608 is referred to in section 5602 of this title.

**§ 5609. Bondholders.**

**(a) Rights and remedies.**—The rights and the remedies

conferred upon bondholders under this section shall be in addition to and not in limitation of rights and remedies lawfully granted them by the resolution for the bond issue or by any deed of trust, indenture or other agreement under which the bond is issued.

**(b) Trustee.—**

(1) The holders of 25% of the aggregate principal amount of outstanding bonds may appoint a trustee to represent the bondholders for purposes of this chapter if any of the following apply:

(i) The authority defaults in the payment of principal or interest on a bond at maturity or upon call for redemption, and the default continues for 30 days.

(ii) The authority fails to comply with this chapter.

(iii) The authority defaults in an agreement made with the bondholders.

(2) The trustee must be appointed by instrument:

(i) filed in the office of the recorder of deeds of the county where the authority is located; and

(ii) proved or acknowledged in the same manner as a deed to be recorded.

(3) A trustee under this subsection and a trustee under any deed of trust, indenture or other agreement may and, upon written request of the holders of 25% of the aggregate principal amount of outstanding bonds or such other percentage specified in the deed of trust, indenture or other agreement, shall in the trustee's name do any of the following:

(i) By action at law or in equity enforce rights of the bondholders. This subparagraph includes the right to require the authority to:

(A) collect rates, rentals or other charges adequate to carry out any agreement as to or pledge of revenues or receipts of the authority;

(B) carry out any other agreements with or for the benefit of bondholders; and

(C) perform its and their duties under this chapter.

(ii) Bring suit upon the bond.

(iii) By action in equity require the authority to account as if it were the trustee of an express trust for the bondholders.

(iv) Enjoin an action which may be unlawful or in violation of the rights of the bondholders.

(v) By notice in writing to the authority, declare all bonds due and payable and, if all defaults are made good, with the consent of the bondholders of 25% of the principal amount of outstanding bonds or such other percentage specified in the deed of trust, indenture or other agreement, to annul such declaration and its consequences.

(4) A trustee under this subsection or a trustee under any deed of trust, indenture or other agreement, whether or not all bonds have been declared due and payable, shall be entitled to the appointment of a receiver.

(5) A receiver under paragraph (4):

(i) may enter and take possession of a facility of the authority or any part of a facility the revenues or receipts from which are or may be applicable to the payment of the bonds in default;

(ii) may operate and maintain the facility or part of the facility;

(iii) may collect and receive all rentals and other revenues arising from the facility after entry and possession in the same manner as the authority or the board might do; and

(iv) shall deposit money collected under subparagraph (iii) in a separate account and apply the money as the court directs.

(6) Nothing in this chapter authorizes a receiver appointed under paragraph (4) to sell, assign, mortgage or otherwise dispose of assets of whatever kind and character belonging to the authority. 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 directs. No bondholder or trustee shall have the right in an action at law or in equity to compel a receiver, nor shall a receiver be authorized or a court empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of assets of whatever kind or character belonging to the authority.

(7) The trustee has all powers necessary or appropriate for the exercise of functions specifically set forth in this subsection or incident to the general representation of the bondholders in the enforcement or protection of their rights.

**(c) Jurisdiction.**—The court of common pleas of the judicial district in which the authority is located shall have jurisdiction of an action by the trustee on behalf of the bondholders.

**(d) Costs and fees.**—In an action by the trustee the court costs, attorney fees and expenses of the trustee and of the receiver and all costs and disbursements allotted by the court shall be a first charge on revenue and receipts derived from the facilities of the authority, the revenue or receipts from which are or may be applicable to the payment of the bonds so in default.

**(e) Definition.**—(Deleted by amendment).  
(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsec. (b)(5)(ii) and (7) and deleted subsec. (e), retroactive to June 19, 2001.

#### **§ 5610. Governing body.**

**(a) Board.**—The powers of each authority shall be exercised by a board composed as follows:

(1) If the authority is incorporated by one municipality, the board shall consist of a number of members, not less than five, as enumerated in the articles of incorporation. The governing body of the municipality shall appoint the members of the board, whose terms of office shall commence on the effective date of their appointment. One member shall serve for one year, one for two years, one for three years, one for four years and one for five years commencing with the first Monday in January next succeeding

the date of incorporation or amendment. If there are more than five members of the board, their terms shall be staggered in a similar manner for terms of one to five years from the first Monday in January next succeeding. Thereafter, whenever a vacancy has occurred by reason of the expiration of the term of any member, the governing body shall appoint a member of the board for a term of five years from the date of expiration of the prior term to succeed the member whose term has expired.

(2) If the authority is incorporated by two or more municipalities, the board shall consist of a number of members at least equal to the number of municipalities incorporating the authority, but in no event less than five. When one or more additional municipalities join an existing authority, each of the joining municipalities shall have similar membership on the board as the municipalities then members of the authority and the joining municipalities may determine by appropriate resolutions. The members of the board of a joint authority shall each be appointed by the governing body of the incorporating or joining municipality he represents, and their terms of office shall commence on the effective date of their appointment. One member shall serve for one year, one for two years, one for three years, one for four years and one for five years from the first Monday in January next succeeding the date of incorporation, amendment or joinder, and if there are more than five members of the board, their terms shall be staggered in a similar manner for terms of from one to five years commencing with the first Monday in January next succeeding. Thereafter, whenever a vacancy has occurred by reason of the expiration of the term of any member, the governing body of the municipality which has the power of appointment shall appoint a member of the board for a term of five years from the date of expiration of the prior term.

**(b) Residency.—**

(1) Except as provided for in subsection (c), the members of the board, each of whom shall be a taxpayer in, maintain a business in or be a citizen of the municipality by which he is appointed or be a taxpayer in, maintain a business in or be a citizen of a municipality into which one or more of the projects of the authority extends or is to extend or to which one or more projects has been or is to be leased, shall be appointed, their terms fixed and staggered and vacancies filled pursuant to the articles of incorporation or the application of membership under section 5604 (relating to municipalities withdrawing from and joining in joint authorities). Where two or more municipalities are members of the authority, they shall be apportioned pursuant to the articles of incorporation or the application for membership under section 5604. Except for special service districts located in whole or in part in cities of the first class or as provided in paragraph (2), a majority of an authority's board members shall be citizens residing in the incorporating municipality or incorporating municipalities of the authority.

(2) Each member of the board of a business improvement district authority that was established by a borough pursuant

to the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, on or before the effective date of this paragraph shall be a taxpayer in, maintain a business in or be a citizen of the borough by which that member is appointed.

**(c) Grade crossings.**—If the authority is created for the purpose of eliminating grade crossings, the members of the board, the majority of whom shall be citizens of the municipality by which they are appointed or of a municipality into which one or more of the projects of the authority extends or is to extend or to which one or more of the projects has been or is to be leased, shall be appointed, their terms fixed and staggered and vacancies filled pursuant to the articles of incorporation or the application of membership under section 5604. Where two or more municipalities are members of the authority, they shall be apportioned pursuant to the articles of incorporation or the application for membership under section 5604.

**(d) Successor.**—Members shall hold office until their successors have been appointed and may succeed themselves and, except members of the boards of authorities organized or created by a school district, shall receive such salaries as may be determined by the governing body of the municipality, but no salaries shall be increased or diminished by a governing body during the term for which the member shall have been appointed. Members of the board of any authority organized or created by a school district shall receive no compensation for their services. 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 him for at least ten days and after having been provided a full hearing by the court. If a vacancy shall occur by reason of the death, disqualification, resignation or removal of a member, the municipal authorities shall appoint a successor to fill his unexpired term. In joint authorities such vacancies shall be filled by the municipal authorities of the municipality in the representation of which the vacancy occurs. If any municipality withdraws from a joint authority, the term of any member appointed from the municipality shall immediately terminate.

**(e) Quorum.**—A majority of the members shall constitute a quorum of the board for the purpose of organizing and conducting the business of the authority and for all other purposes, and all action may be taken by vote of a majority of the members present unless the bylaws shall require a larger number. The board shall have full authority to manage the properties and business of the authority and to prescribe, amend and repeal bylaws, 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. The board shall fix and determine the number of officers, agents and employees of the authority and their respective powers, duties and compensation and may appoint to such office or offices any member of the board with such powers, duties and compensation as the board may deem proper. The treasurer of the board of any authority organized or created by a school district shall give bond in such sums as may be fixed by the bylaws, which bond shall be subject to the approval of the board and the premiums

for which shall be paid by the authority.

**(f) Removal.**—Unless excused by the board, a member of a board who fails to attend three consecutive meetings of the board may be removed by the appointing municipality up to 60 days after the date of the third meeting of the board which the member failed to attend.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsecs. (a) and (b), retroactive to June 19, 2001. See section 4 of Act 110 in the appendix to this title for special provisions relating to continuation of membership on board.

**Cross References.** Section 5610 is referred to in section 5605 of this title.

**§ 5611. Investment of authority funds.**

**(a) Powers.**—The board shall have the power to:

(1) Invest authority sinking funds in the manner provided for local government units by Subpart B of Part VII (relating to indebtedness and borrowing).

(2) Invest moneys in the General Fund and in special funds of the authority other than the sinking funds as authorized by this section.

(3) Liquidate any such investment in whole or in part by disposing of securities or withdrawing funds on deposit. Any action taken to make or to liquidate any investment shall be made by the officers designated by action of the board.

**(b) Investment.**—The board shall invest authority funds consistent with sound business practice and the standard of prudence applicable to the State Employees' Retirement System set forth in 71 Pa.C.S. § 5931(a) (relating to management of fund and accounts).

**(c) Program.**—The board shall provide for an investment program subject to restrictions contained in this chapter and in any other applicable statute and any rules and regulations adopted by the board.

**(d) Types.**—Authorized types of investments for authority funds shall be:

(1) United States Treasury bills.

(2) Short-term obligations of the United States Government or its agencies or instrumentalities.

(3) Deposits in savings accounts or time deposits or share accounts of institutions insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation or the National Credit Union Share Insurance Fund to the extent that such accounts are so insured and for any amounts above the insured maximum if the approved collateral as provided by law shall be pledged by the depository.

(4) Obligations of the United States of America or any of its agencies or instrumentalities backed by the full faith and credit of the United States of America, the Commonwealth or any of its agencies or instrumentalities backed by the full faith and credit of the Commonwealth or of any political subdivision of the Commonwealth or any of its agencies or instrumentalities backed by the full faith and credit of the political subdivision.

(5) Shares of an investment company registered under the

Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.) whose shares are registered under the Securities Act of 1933 (48 Stat. 74, 15 U.S.C. § 77a et seq.) if the only investments of that company are in the authorized investments for authority funds listed in paragraphs (1) through (4).

(6) Sovereign debt if the instruments are dollar denominated and backed by the full faith and credit of the sovereign government and if the investments do not exceed more than 2% of the market value of the authority's assets at the time of investment and if the maturity of the instruments does not exceed 15 years and if the obligations are permitted investments of the State Employees' Retirement System and it is established that the issuer had issued such sovereign debt over a period of at least 30 years and has not defaulted on the payment either of principal or interest on its obligations. This paragraph shall only apply to a board in a county of the first class, second class or second class A or in a city of the first class, second class, second class A or third class.

**(e) Authority.**—In making investments of authority funds, the board shall have authority to:

(1) Permit assets pledged as collateral under subsection (d)(3), to be pooled in accordance with the act of August 6, 1971 (P.L.281, No.72), entitled "An act standardizing the procedures for pledges of assets to secure deposits of public funds with banking institutions pursuant to other laws; establishing a standard rule for the types, amounts and valuations of assets eligible to be used as collateral for deposits of public funds; permitting assets to be pledged against deposits on a pooled basis; and authorizing the appointment of custodians to act as pledgees of assets."

(2) Combine moneys from more than one fund under authority control for the purchase of a single investment if lack of the funds combined for the purpose shall be accounted for separately in all respects and if earnings from the investment are separately and individually computed, recorded and credited to the accounts from which the investment was purchased.

(3) Join with one or more other political subdivisions and municipal authorities in accordance with Subchapter A of Chapter 23 (relating to intergovernmental cooperation) in the purchase of a single investment pursuant to the requirements of paragraph (2).

**§ 5612. Money of authority.**

**(a) Treasurer.**—All money of any authority from whatever source derived shall be paid to the treasurer of the authority.

**(b) Report.**—Every authority whose fiscal year ends December 31 shall file on or before July 1 an annual report of its fiscal affairs covering the preceding calendar year with the Department of Community and Economic Development and with the municipality creating the authority on forms prepared and distributed by the Department of Community and Economic Development. Authorities whose fiscal year does not end on December 31 shall file the report within 90 days after the end of their fiscal year. Every authority shall have its books, accounts and records audited annually by a certified public accountant, and a copy of his

audit report shall be filed in the same manner and within the same time period as the annual report. A concise financial statement shall be published annually at least once in a newspaper of general circulation in the municipality where the principal office of the authority is located. If the publication is not made by the authority, the municipality shall publish such statement at the expense of the authority. If the authority fails to make such an audit, then the controller, auditor or accountant designated by the municipality is hereby authorized and empowered from time to time to examine at the expense of the authority the accounts and books of it, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other matters relating to its finances, operation and affairs.

**(c) Attorney General.**—The Attorney General of the Commonwealth shall have the right to examine the books, accounts and records of any authority.

**§ 5613. Transfer of existing facilities to authority.**

**(a) Authorization.**—Any municipality, school district or owner may sell, lease, lend, grant, convey, transfer or pay over to any authority with or without consideration any project or any part of it, any interest in real or personal property, any funds available for building construction or improvement purposes, including the proceeds of bonds previously or hereafter issued for building construction or improvement purposes, which may be used by the authority in the construction, improvement, maintenance or operation of any project. Any municipality or school district may transfer, assign and set over to any authority any contracts which may have been awarded by the municipality or school district for the construction of projects not initiated or completed. The territory being served by any project or the territory within which a project is authorized to render service at the time of the acquisition of a project by an authority shall include the area served by the project and the area in which the project is authorized to serve at the time of acquisition and any other area into which the service may be extended, subject to the limitations of section 5607(a) (relating to purposes and powers).

**(b) Acquisition.**—

(1) An authority may not acquire by any device or means, including a consolidation, merger, purchase or lease or through the purchase of stock, bonds or other securities, title to or possession or use of all or a substantial portion of any existing facilities constituting a project as defined under this chapter if the project is subject to the jurisdiction of the Pennsylvania Public Utility Commission without first reporting to and advising the municipality which created or which are members of the authority of the agreement to acquire, including all its terms and conditions.

(2) The proposed action of the authority and the proposed agreement to acquire shall be approved by the governing body of the municipality which created or which are members of the authority and to which the report is made. Where there are one or two member municipalities of the authority, such approval shall be by two-thirds vote of all of the members of the governing body or of each of the

governing bodies. If there are more than two member municipalities of the authority, approval shall be by majority vote of all the members of each governing body of two-thirds of the member municipalities.

**(c) Complete provision.**—Notwithstanding any other provision of law, this section, without reference to any other law, shall be deemed complete for the acquisition by agreement of projects as defined in this chapter located wholly within or partially without the municipality causing such authority to be incorporated, and no proceedings or other action shall be required except as provided for in this section.

**Cross References.** Section 5613 is referred to in section 5614 of this title.

**§ 5614. Competition in award of contracts.**

**(a) Services.—**

(1) Except as set forth in paragraph (2), all construction, reconstruction, repair or work of any nature made by an authority if the entire cost, value or amount, including labor and materials, exceeds \$10,000 shall be done only under contract to be entered into by the authority with the lowest responsible bidder upon proper terms after public notice asking for competitive bids as provided in this section.

(2) Paragraph (1) does not apply to construction, reconstruction, repair or work done by employees of the authority or by labor supplied under agreement with a Federal or State agency with supplies and materials purchased as provided in this section.

(3) No contract shall be entered into for construction or improvement or repair of a project or portion thereof unless the contractor gives an undertaking with a sufficient surety approved by the authority and in an amount fixed by the authority for the faithful performance of the contract.

(4) The contract must provide among other things that the person or corporation entering into the contract with the authority will pay for all materials furnished and services rendered for the performance of the contract and that any person or corporation furnishing materials or rendering services may maintain an action to recover for them against the obligor in the undertaking as though such person or corporation was named in the contract if the action is brought within one year after the time the cause of action accrued.

(5) Nothing in this section shall be construed to limit the power of the authority to construct, repair or improve a project or portion thereof or any addition, betterment or extension thereto directed by the officers, agents and employees of the authority or otherwise than by contract.

**(b) Supplies and materials.**—All supplies and materials costing at least \$10,000 shall be purchased only after advertisement as provided in this section. The authority shall accept the lowest bid, kind, quality and material being equal, but the authority shall have the right to reject any or all bids or select a single item from any bid. The provisions as to bidding shall not apply to the purchase of patented and manufactured products offered for sale in a noncompetitive

market or solely by a manufacturer's authorized dealer.

**(c) Quotations.**—Written or telephonic price quotations from at least three qualified and responsible contractors shall be requested for a contract which exceeds \$4,000 but is less than the amount requiring advertisement and competitive bidding. In lieu of price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors exist in the market area within which it is practicable to obtain quotations. A written record of telephonic price quotations shall be made and shall contain at least the date of the quotation; the name of the contractor and the contractor's representative; the construction, reconstruction, repair, maintenance or work which was the subject of the quotation; and the price. Written price quotations, written records of telephonic price quotations and memoranda shall be retained for a period of three years.

**(d) Notice.**—The term "advertisement" or "public notice," wherever used in this section, shall mean a notice published at least ten days before the award of a contract in a newspaper of general circulation published in the municipality where the authority has its principal office or, if no newspaper of general circulation is published therein, in a newspaper of general circulation in the county where the authority has its principal office. Notice may be waived if the authority determines that an emergency exists which requires the authority to purchase the supplies and materials immediately.

**(e) Conflict of interest.**—No member of the authority or officer or employee of the authority may directly or indirectly be a party to or be interested in any contract or agreement with the authority if the contract or agreement establishes liability against or indebtedness of the authority. Any contract or agreement made in violation of this subsection is void, and no action may be maintained on the agreement against the authority.

**(f) Entry into contracts.**—

(1) Subject to subsection (e), an authority may enter into and carry out contracts or establish or comply with rules and regulations concerning labor and materials and other related matters in connection with a project or portion thereof as the authority deems desirable or as may be requested by a Federal agency to assist in the financing of the project or any part thereof. This paragraph shall not apply to any of the following:

(i) A case in which the authority has taken over by transfer or assignment a contract authorized to be assigned to it under section 5613 (relating to transfer of existing facilities to authority).

(ii) A contract in connection with the construction of a project which the authority may have had transferred to it by any person or private corporation.

(2) This subsection is not intended to limit the powers of an authority.

**(g) Compliance.**—A contract for the construction, reconstruction, alteration, repair, improvement or maintenance of public works shall comply with the provisions of the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

**(h) Evasion.**—

(1) An authority may not evade the provisions of this

section as to bids or purchasing materials or contracting for services piecemeal for the purpose of obtaining prices under \$10,000 upon transactions which should, in the exercise of reasonable discretion and prudence, be conducted as one transaction amounting to more than \$10,000.

(2) This subsection is intended to make unlawful the practice of evading advertising requirements by making a series of purchases or contracts each for less than the advertising requirement price or by making several simultaneous purchases or contracts each below that price when in either case the transaction involved should have been made as one transaction for one price.

(3) An authority member who votes to unlawfully evade the provisions of this section and who knows that the transaction upon which the member votes is or ought to be a part of a larger transaction and that it is being divided in order to evade the requirements as to advertising for bids commits a misdemeanor of the third degree for each contract entered into as a direct result of that vote.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsecs. (a)(2) and (d), retroactive to June 19, 2001.

**§ 5615. Acquisition of lands, water and water rights.**

**(a) Authorization.—**

(1) Except as provided in paragraph (2), the authority shall have the power to acquire by purchase or eminent domain proceedings either the fee or the rights, title, interest or easement in such lands, water and water rights as the authority deems necessary for any of the purposes of this chapter. Water and water rights may not be acquired unless approval is obtained from the Department of Environmental Protection.

(2) The right of eminent domain does not apply to:

(i) Property owned or used by the United States, the Commonwealth or any of its political subdivisions, or an agency of any of them, or any body politic and corporate organized as an authority under any law of the Commonwealth or by any agency.

(ii) Property of a public service company.

(iii) Property used for burial purposes.

(iv) Places of public worship.

**(b) Exercise.—**The right of eminent domain shall be exercised by the authority in the manner provided by law for the exercise of such right by municipalities of the same class as the municipality which organized the authority. Eminent domain shall be exercised by a joint authority in the same manner as is provided by law for the exercise of such right by municipalities of the same class as the municipality in which the right of eminent domain is to be exercised. The right of eminent domain herein conferred by this section may be exercised either within or without the municipality.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsec. (a)(2)(i), retroactive to June 19, 2001.

**§ 5616. Acquisition of capital stock.**

**(a) Acquisition.**—In the event that the authority shall own 90% or more of all the outstanding capital stock entitled to vote upon liquidation and dissolution and which is not subject by its terms to be called for redemption of any corporation owning a project and organized and existing under the laws of this Commonwealth, the authority shall have the power to acquire the remainder of the stock by eminent domain as a part of a plan for the liquidation of the corporation.

**(b) Exercise.**—The right of eminent domain with respect to the remainder of capital stock shall be exercised by the authority pursuant to this subsection. In the event that the authority has not agreed with an owner of any of the capital stock as to the value of the stock, the authority shall file with the court of common pleas of the county in which the corporation's principal place of business is located its bond for the benefit of the owner and for any other persons who may be found entitled to receive damages for the taking of the capital stock, of which the owner shall be obligee, the condition of which bond shall be that the authority shall pay or cause to be paid to the owner of the stock or to such other persons as may be found entitled to receive damages for the taking of the capital stock, an amount as the owner or such other persons shall be entitled to receive for the taking of the stock, after the amount shall have been agreed upon by the parties or assessed in the manner provided by subsection (d). The bond shall be accompanied by proof that notice of the proposed filing was mailed by registered mail not less than ten days prior to the proposed filing to the owner of the stock at his address as shown by the records of the corporation. Upon approval by the court of the bond, the authority shall be vested with all the right, title and interest in and to the stock, and the owner and all other persons shall cease to have any rights or interest with regard to the stock other than the right to compensation for the taking of it under the procedure set forth in subsection (d). The word "owner," as used in this subsection, shall mean the person in whose name the stock is registered on the books of the corporation.

**(c) Approval.**—In the event that the authority shall have contracted in writing to purchase 90% or more of any outstanding capital stock, it shall have the right to obtain the approval of the court to the bond required by the provisions of subsection (b), but the approval shall not be effective for the purposes of this section unless and until there is also filed with the prothonotary of the court within ten days after the approval a sworn statement by the chairman of the board of the authority, duly attested by the secretary of the authority, that the authority has become the owner of 90% or more of the capital stock.

**(d) Appraisal.**—

(1) If the authority and the former owner of the stock fail to agree as to the amount which the former owner is entitled to receive as compensation for the taking of the stock within 30 days after the approval of the bond by the court under the provisions of subsection (b) or the filing of the required statement under the provisions of subsection (c), either party may apply by petition to the court for the appointment by the court of three disinterested persons to

appraise the fair value of the stock immediately prior to its acquisition by the authority without regard to any depreciation or appreciation in consequence of the acquisition.

(2) The appraisers or a majority of them shall file their award, which shall include the costs of the appraisal, with the court and shall mail a copy to each party with the date of filing stated thereon. When the award is filed with the court, the prothonotary shall mark the same "confirmed nisi" and, if no exceptions are filed within ten days, he shall enter a decree that the award is confirmed absolutely. If exceptions to the award are filed by either party before the award is confirmed, the court shall hear the same and shall have the power to confirm, modify, change or otherwise correct the award or refer the same back to the same or new appraisers with similar power as to their award.

**§ 5617. Use of projects.**

The use of the facilities of the authority and the operation of its business shall be subject to the rules and regulations as adopted by the authority. The authority shall not be authorized to do anything which will impair the security of the holders of the obligations of the authority or violate any agreements with them or for their benefit.

**§ 5618. Pledge by Commonwealth.**

(a) **Power of authorities.**—The Commonwealth pledges to and agrees with any person, firm or corporation or Federal agency subscribing to or acquiring the bonds to be issued by the authority for the construction, extension, improvement or enlargement of a project or part thereof that the Commonwealth will not limit or alter the rights vested by this chapter in the authority until all bonds and the interest on them are fully met and discharged.

(b) **Federal matters.**—The Commonwealth pledges to and agrees with the United States and all Federal agencies that, if a Federal agency constructs or contributes funds for the construction, extension, improvement or enlargement of a project or any portion thereof:

(1) the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the continued maintenance and operation of the project or the improvement thereof or which would be inconsistent with the due performance of agreements between the authority and any Federal agency; and

(2) the authority shall continue to have and may exercise all powers granted in this chapter as long as the powers are necessary or desirable for carrying out the purposes of this chapter and the purposes of the United States in the construction or improvement or enlargement of the project or portion thereof.

**§ 5619. Termination of authority.**

(a) **Conveyance of projects.**—When an authority has finally paid and discharged all bonds, with interest due, which have been secured by a pledge of any of the revenues or receipts of a project, the authority may, subject to agreements concerning the operation or disposition of the project, convey the project to the municipality creating the authority or, if the project is a public school project, to the school district to which the

project is leased.

**(b) Conveyance of property.**—When an authority has finally paid and discharged all bonds issued and outstanding and the interest due on them and settled all other outstanding claims against it, the authority may convey all its property to the municipality or municipalities or, if the property is public school property, then to the school district for which the property was financed, and terminate its existence.

**(c) Certificate.**—An authority requesting to terminate its existence must submit a certificate requesting termination to the municipality which created it. If the certificate is approved by the municipality by its ordinance or resolution, the certificate shall be filed in the office of the Secretary of the Commonwealth; and the secretary shall note the termination of existence on the record of incorporation and return the certificate with approval to the board. The board shall cause the certificate to be recorded in the office of the recorder of deeds of the county. Upon recording, the property of the authority shall pass to the municipality or municipalities or, if the property is public school property, then to the school district for which the property was financed; and the authority shall cease to exist.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsecs. (b) and (c), retroactive to June 19, 2001.

**§ 5620. Exemption from taxation and payments in lieu of taxes.**

The effectuation of the authorized purposes of authorities created under this chapter shall be for the benefit of the people of this Commonwealth, for the increase of their commerce and prosperity and for the improvement of their health and living conditions. Since authorities will be performing essential governmental functions in effectuating these purposes, authorities shall not be required to pay taxes or assessments upon property acquired or used by them for such purposes. Whenever in excess of 10% of the land area of any political subdivision in a sixth, seventh or eighth class county has been taken for a waterworks, water supply works or water distribution system having a source of water within a political subdivision which is not provided with water service by the authority, in lieu of such taxes or special assessments the authority may agree to make payments in the county to the taxing authorities of any or all of the political subdivisions where any land has been taken. The bonds issued by any authority, their transfer and the income from the bonds, including any profits made on their sale, shall be free from taxation within the Commonwealth.

**§ 5621. Constitutional construction.**

The provisions of this chapter shall be severable, and if any of the provisions are held to be unconstitutional it shall not affect the validity of any of the remaining provisions of this chapter. It is hereby declared as the legislative intent that this chapter would have been adopted had such unconstitutional provisions not been included.

**§ 5622. Conveyance by authorities to municipalities or school districts of established projects.**

**(a) Project.**—If a project established under this chapter by a board appointed by a municipality is of a character which the

municipality has power to establish, maintain or operate and the municipality desires to acquire the project, it may by appropriate resolution or ordinance adopted by the proper authorities signify its desire to do so, and the authorities shall convey by appropriate instrument the project to the municipality upon the assumption by the municipality of all the obligations incurred by the authorities with respect to that project.

**(b) Public school project.**—A public school project undertaken under this chapter may be acquired by a school district to which the project was leased if the school district by appropriate resolution signifies a desire to do so. An authority shall convey the public school project to the school district by appropriate instrument upon the assumption by the school district of all the obligations incurred by the authority with respect to that project.

**(c) Conveyance.**—An authority formed by any county for the purpose of acquiring, constructing, improving, maintaining or operating any project for the benefit of any one or more but not all of the cities, boroughs, towns and townships of the county may, with the approval of the board of county commissioners of the county, convey the project to the cities, boroughs, towns or townships of the county for the benefit of which the project was acquired, constructed, improved, maintained or operated or to any authority organized by such cities, boroughs, towns or townships for the purpose of taking over such project. All such conveyances shall be made subject to any and all obligations incurred by the authority with respect to the project conveyed.

**(d) Reserves.**—Following transfer of a project pursuant to this section, the municipality, including an incorporated town or home rule municipality, which has acquired the project shall retain the reserves received from the authority which have been derived from operations in a separate fund, and the reserves shall only be used for the purposes of operating, maintaining, repairing, improving and extending the project. Money received from the authority which represents the proceeds of financing shall be retained by the municipality in a separate fund which shall only be used for improving or extending the project or other capital purposes related to it.

(Dec. 17, 2001, P.L.926, No.110, eff. imd.)

**2001 Amendment.** Act 110 amended subsec. (b), retroactive to June 19, 2001.