

No. 43
AN ACT

SB 800

Reenacting and amending the act of June 30, 1965 (P. L. 153), entitled "An act to create a regional agency by intergovernmental compact for the continuing, comprehensive, coordinated regional planning for the Delaware Valley Urban Area, and defining the functions, powers and duties of such agency," adapting the compact to certain new governmental agencies and making changes as to organization and membership, certain powers and duties, fiscal affairs, general provisions of the compact and certain dates.

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

Section 1. The act of June 30, 1965 (P. L. 153), known as the "Delaware Valley Urban Area Compact," amended November 9, 1965 (P. L. 678), is reenacted and amended to read:

PART I
COMPACT

Whereas, by an agreement dated January 23, 1959, the Commonwealth of Pennsylvania, the State of New Jersey, and the Counties of Bucks, Chester, Delaware and Montgomery and the City of Philadelphia, all in the Commonwealth of Pennsylvania, and the Counties of Burlington, Camden, Gloucester, and Mercer, all in the State of New Jersey, provided for transportation planning in the Delaware Valley Urban Area and established therefor an organization known as the Penn Jersey Transportation Study, which has been in operation since that time; and

Whereas, the Commonwealth of Pennsylvania and the State of New Jersey now desire to create a successor to the said Penn Jersey Transportation Study in the form of a body politic and corporate to carry on the continuing, comprehensive, coordinated transportation and regional planning study and process for the Delaware Valley Urban Area; and

Whereas, the Congress of the United States of America has, by the enactment of Public Law 87-866, 1962, declared it to be in the national interest to encourage and promote the development of transportation systems that will serve the states and local communities efficiently and effectively; and

Whereas, the Congress of the United States of America has by the enactment of Public Law 86-372, 1959, authorized the [Administrator of the Housing and Home Finance Agency] Secretary of the United States Department of Housing and Urban Development to make planning grants to official regional planning agencies empowered by inter-

New Jersey Act approved June 18, 1966, (P. L. 1966 c. 149) as amended and approved October 13, 1967, (P. L. 1967 c. 223); October 2, 1969 (P. L. 1969 c. 174) May 20, 1970 (P. L. 1970 c. 67); June 2, 1971 (P. L. 1971 c. 190); August 17, 1972 (P. L. 1972 c. 128); November 21, 1973 (P. L. 1973 c. 240) and December 31, 1974 (P. L. 1974 c. 193) known as the "Delaware Valley Urban Area Compact."

state compact to perform metropolitan or regional planning and by Public Law 87-70, 1961, gave its prior consent to such compacts.

Now, therefore, the Commonwealth of Pennsylvania and the State of New Jersey hereby solemnly covenant and agree with each other, upon the enactment of this act by their respective state legislatures, as follows:

ARTICLE I

Short Title, Definitions, Purpose and Limitations

Section 1. Short Title.—This act shall be known and may be cited as the "Delaware Valley Urban Area Compact."

Section 2. Definitions.—For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except where such meaning is obviously inapplicable, the following words and phrases shall mean:

(a) The Commission—The Delaware Valley Regional Planning Commission;

(b) Delaware Valley Urban Area—The area included within the Counties of Burlington, Camden, Gloucester and Mercer in the State of New Jersey, and the Counties of Bucks, Chester, Delaware and Montgomery and the City of Philadelphia in the Commonwealth of Pennsylvania;

(c) Area—The Delaware Valley Urban Area;

(d) Commissioners—The members of the commission;

(e) Board—The body composed of the members of the commission;

(f) Federal Government—The Government of the United States of America and any branch, department, bureau or division thereof, as the case may be;

(g) Federal Representative—Any individual duly authorized to represent the Federal Government.

Section 3. Purpose and Findings.—The legislative bodies of the signatory parties hereby find and declare that the transportation and land resources of the area are affected with a local, state, regional and national interest and their planning under appropriate arrangements for interstate cooperation, is a public purpose of the respective signatory parties.

In general, the purposes of this compact are to organize and conduct a continuing, comprehensive, coordinated regional planning program for the area, including but not limited to transportation planning for the interests and purposes, consistent with its annual budgets, of the agencies of Pennsylvania and New Jersey represented by commissioners as well as for the purposes of the local governments and their planning agencies.

Section 4. Act to Be Liberally Construed.—This compact shall be construed liberally to effectuate its purposes. Nothing herein shall be deemed in any way to limit or restrict the power of one or both of the party states, by law or otherwise, to deal independently with

respect to any matter within the scope of this compact.

Section 5. Amendments and Supplements.—Amendments and supplements to this compact to implement the purposes thereof may be adopted by concurrent legislation of the party states.

Section 6. Construction and Severability.—If any part or provision of this compact or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this compact or the application thereof to other persons or circumstances, and the party states hereby declare that they would have entered into this compact or the remainder thereof had the invalidity of such provision or application thereof been apparent.

Section 7. Duration of Compact.—The duration of this compact shall be perpetual unless either of the signatory parties shall terminate it by authority of an act of its legislature.

ARTICLE II

Organization and Membership

Section 1. Commission Created.—The Delaware Valley Regional Planning Commission is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties.

Section 2. Commission Membership.—The commission shall consist of the following members to be known as commissioners:

The Secretary of Highways of the Commonwealth of Pennsylvania, ex officio,

The Commissioner of [Highways] Transportation of the State of New Jersey, ex officio,

The Executive Director, State Planning Board, Commonwealth of Pennsylvania, ex officio,

The Commissioner of [Conservation and Economic Development] Community Affairs, State of New Jersey, ex officio,

An appointee of the Governor of Pennsylvania, by and with the consent of the Senate, who shall be a resident of Pennsylvania and the area, and shall serve at the pleasure of the Governor,

An appointee of the Governor of New Jersey [, by and with the consent of the Senate,] who shall be a resident of New Jersey and the area, and shall serve at the pleasure of the Governor,

A representative from each of the four Pennsylvania counties and four New Jersey counties included in the area, and

One representative each from the Cities of Philadelphia, Chester, Camden and Trenton.

Section 3. Appointment of Members.—The said representative from each of the aforesaid political subdivisions shall be appointed by the governing bodies thereof, and serve at the pleasure of the appointing power.

Section 4. Voting Power.—[Each of the aforesaid members of the commission, including the ex officio members, shall have a right to vote on all matters coming before the board. Each of the ex officio members may designate an alternate who shall have the right to vote. Eleven voting members or alternates, including at least three members of each state present, in person, shall constitute a quorum. All actions of the board shall be by majority vote of the members or alternates present.] A quorum of the commission for the purpose of transacting business at any commission meeting shall exist only when there are present, in person, at least five members or alternates from each of the party states including at least two of three state officials or appointees or their alternates from each state. No action of the commission shall be effective or binding unless a majority of each party state's representatives who are present at such meeting, including at least two of the three state's officials or appointees or their alternates, shall vote in favor thereof.

Section 5. Officers.—The board shall elect a chairman, vice chairman, a secretary and a treasurer from among its membership and may elect such other officers as it desires from among its membership. The vice chairman, and either the secretary or treasurer, shall not reside in the same state as the chairman. The chairman or the vice chairman shall be elected from among the state officials or appointees of each party state; the remaining officer shall be selected from among the members representing the counties and municipalities.

Section 6. Meeting Dates.—The board may establish regular meeting dates and hold such special meetings as it desires upon call of the chairman after at least 10 days' notice. Within 20 days after a regular or special meeting, a copy of the minutes of said meeting shall be sent to the Governor of each party state.

Section 7. Compensation.—None of the commissioners or their alternates shall be entitled to any compensation for the performance of their duties but shall be entitled to reimbursement for necessary travel and other expenses incurred by them in their performance of such duties.

Section 8. Organization, Procedure, Powers and Duties.—The board shall provide for procedure and shall adopt rules and regulations governing its meetings and transactions.

Section 9. Executive Committee; Meetings, Powers and Duties.—
(a) The Executive Committee of the Delaware Valley Regional Planning Commission shall consist of the following commissioners:

The four ex officio members or their alternates,

The two appointees of the Governors,

One representative to be chosen by the four New Jersey county members of the commission,

One representative to be chosen by the four Pennsylvania county members of the commission,

The representatives of the Cities of Philadelphia and Camden.

[Five commissioners, including at least two commissioners from each state in person, shall constitute a quorum of the executive committee and all actions of the committee shall be by majority vote of the commissioners or alternates present. The executive committee may elect a chairman, a vice chairman and a secretary from among its members. The chairman and vice chairman shall not reside in the same state.]

(b) A quorum of the executive committee for the purpose of transacting business at any committee meeting shall exist only when there are present, in person, at least three members or alternates from each of the party states including at least two of three state officials or appointees or their alternates from each state. No action of the committee shall be effective or binding unless a majority of each party state's representatives who are present at such meeting, including at least two of the three state's officials or appointees or their alternates, shall vote in favor thereof;

(c) The executive committee may elect a chairman, vice chairman and a secretary from among its membership and may elect such other officers as it desires from among its members. The chairman and vice chairman shall not reside in the same state. The chairman or the vice chairman shall be elected from among the state officials or appointees of each party state; the remaining officers shall be selected from among the members representing the counties and

municipalities. The executive committee shall establish regular meeting dates and may call special meetings upon call of its chairman after 5 days' notice;

In addition to the powers and duties conferred upon the executive committee by this act, it shall have such other duties as the board shall from time to time delegate to it.

ARTICLE III

Powers and Duties of the Commission, the Board and the Executive Committee

Section 1. Powers of Commission.—The commission shall have the following powers:

(a) To adopt and use a corporate seal;
(b) To acquire by purchase, lease, gift or governmental appropriation such estates or interests in real and personal property as are necessary or required for its operations;

(c) To contract in all respects necessary or convenient for its operations; and to enter into contracts with the United States of America to obtain financial assistance;

(d) To employ and discharge or to contract with such personnel as are necessary or convenient for its operations and to fix their compensation;

(e) To adopt by-laws and to rescind, amend or supplement the same from time to time. Any by-laws adopted shall be consistent with this legislation;

(f) To adopt, promulgate and publish rules and regulations as are determined necessary in the performance of its functions;

(g) To provide services for governmental bodies and public and business organizations consistent with the purposes of this act and to receive compensation therefor;

(h) To do any and all things necessary, convenient or incidental within the scope of its corporate purposes.

Section 2. Duties of Commission.—The commission shall have the following duties and responsibilities:

The commission shall have the responsibility of providing for the needs of the highway and/or transportation departments of the

signatory parties in order that the states may qualify for all funds available to them from the Federal Government for the construction of highway facilities in the area and meet with the other planning needs of the said [highway] departments in the area. The commission shall also have the responsibility of providing for regional planning and the meeting and satisfaction of regional transportation planning requirements in order that the area may qualify for all funds available to it from the Federal Government for the provision of mass

transportation facilities and services in the area. The commission shall also have the responsibility for meeting the needs of the Pennsylvania State Planning Board and the New Jersey Department of [Conservation and Economic Development] Community Affairs as

required to obtain funds from the Federal Government available for such purposes as well as their other operations. The commission shall cooperate with all other state and local government agencies which have planning needs in the area. The commission shall serve as an advisory agency, with actual authority for carrying out planning proposals continuing to rest in the governing bodies of the states and counties. It shall initiate and develop surveys and plans of a regional nature and assist through coordination and planning programs involving regional matters of the planning bodies of the participants. The commission shall not assume any existing powers or functions of such planning commissions. It shall be the function and duty of the commission to make a master plan and such survey and studies as may be essential thereto for the physical development of the area and submit said plan to the participating governmental bodies. The commission shall encourage and promote the cooperation among all levels of government for the purpose of achieving the greatest possible benefit both economic and cultural for the inhabitants of the Delaware Valley Urban Area.

Section 3. Powers and Duties of the Board.—The board shall have the following powers and duties:

(a) To create and define the duties of the office of executive director and upon the recommendation of the executive committee to appoint persons to that office to serve at the pleasure of the board.

(b) To create and define the duties of such committees, other than the executive committee, as it shall deem proper and necessary to the operation of the commission and appoint the membership thereof.

(c) To approve and adopt not later than March 1 of each year, a work program for the next fiscal year as submitted to it by the executive committee.

(d) To exercise and perform all the powers and duties granted to and imposed upon the commission except those powers and duties expressly delegated or imposed by this compact to or upon the executive committee.

Section 4. Powers and Duties of the Executive Committee.—The executive committee shall have the following powers:

(a) To exercise on behalf of the commission all the powers granted the commission by section 1, subsections (b), (c) and (d) of this article;

(b) The general supervision of the conduct of operations of the commission including individual projects;

(c) To manage the fiscal affairs of the commission and to prepare and adopt an annual budget not later than March 15 for each fiscal

year beginning July 1 of each calendar year and ending June 30 of the succeeding year: Provided, however, That neither of the Departments of Highways and/or Transportation of the signatory parties nor the State Planning Board of Pennsylvania or the Department of [Conservation and Economic Development] Community Affairs of New Jersey shall be required to provide funds for any fiscal year without the approval of the representative of the department or board affected and such approval shall be subject to the availability of funds appropriated pursuant to the applicable laws of the respective party states;

The aforesaid requirement that budgets be adopted no later than March 15 shall not apply for the fiscal year beginning July 1, 1965:

(d) To prepare a work program for each fiscal year, consistent with the budget for that year in such form that budget items are chargeable to specific elements thereof and submit it to the board for approval and adoption not later than March 1 preceding the beginning of the fiscal year;

(e) The executive committee shall provide proper and adequate bonding surety conditioned upon the honest performance of such of the personnel of the commission as have responsibility for the custody of its receipts and control of its disbursements.

(f) The executive committee shall establish, by rules and regulation, the procedures for receipt and disbursement of funds and shall establish and cause to be maintained such fiscal records and shall meet the requirements for any Federal audits which may be authorized in connection with the financial participation of the United States of America in the commission's operation.

(g) Any by-laws adopted shall be consistent with this legislation.

ARTICLE IV

Fiscal Affairs

Audits, Source of Funds, Tax Exemption

Section 1. Audits.—The fiscal affairs of the commission shall be subject to annual audits by the [Auditors] Auditor General of Pennsylvania and by the Director of the Division of Budget and Accounting in New Jersey. In addition, any county or city may either singly or in cooperation with the party states perform or cause such audits of the fiscal affairs of the commission for any fiscal year in which it or its corporation counterparts, if any, have made contributions.

Section 2. Apportionment of Expenses.—[Whenever] Subject to the availability of funds appropriated pursuant to the applicable laws of the respective party states, whenever the executive committee shall

adopt a budget, the share of each state shall be apportioned upon the basis that its population in the Delaware Valley Urban Area bears to the total population of the Delaware Valley Urban Area as determined by the latest available population figures of the United States Bureau of the Census. In the application of this formula, any moneys to be provided from sources other than the governmental bodies comprising the Delaware Valley Urban Area shall be first deducted. [Any appropriation toward an annual budget to be made by any county or city shall be credited to the proportionate budget obligation of the state of which such contributing county or city form a part.] The commission may receive and disburse funds including any appropriation towards its annual budget made by any county, city, other municipality or any private source in the manner, it, the commission authorizes. Counties and cities and/or other municipalities may contribute and are hereby authorized to contribute funds and/or personnel to the commission. All the direct expense related to any mass transportation demonstration project shall be paid by the state in which such project is located.

Section 3. Tax Exemption.—The commission shall not be subject to any taxation by the Commonwealth of Pennsylvania, the State of New Jersey or any local government thereof.

ARTICLE V

Federal Participation and Commission Responsibility with Respect Thereto

Section 1. Federal Participation.—The Bureau of Public Roads, Federal Highway Administration, United States Department of [Commerce] Transportation, and the Housing and Home Finance [Administration] Agency of the United States Department of Housing and Urban Development may each appoint not more than three representatives to the commission who shall have no right to vote in any matter and may have such representation on the executive committee and other committees as the commission shall determine. The two Federal agencies shall be entitled to the regular communications of the commission and the committees on which they are represented as fully as are voting members.

The commission shall comply with all lawful and proper requirements of the Federal agencies, and shall cooperate with state and local agencies in meeting such Federal requirements.

ARTICLE VI
General Provisions

Section 1. Attributes of Sovereign Immunity.—The commission, as an instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey exercising a governmental function may not be sued in any court of law or equity and shall be vested with such attribute of sovereign immunity in its transactions within the boundaries of one or the other of the two states as shall apply to the respective highway and/or transportation departments thereof and

no more. If the commission is liable in one state and would not have been liable in the other state, the state wherein such liability exists shall be solely obligated to discharge such liability, as well as any costs, fees, or expenses imposed upon or incurred by the commission, notwithstanding any other provisions of this agreement.

Section 2. Failure of Mutual Ratification.—In the event the State of New Jersey does not enact legislation adequate to the consummation of the interstate compact expressed in this act by June 30, [1965] 1967, then this act shall become effective in this Commonwealth

on July 1, [1965] 1967, and shall be operative in all respects and manners as fully as if the State of New Jersey had enacted such legislation, except that the State of New Jersey and the political subdivisions thereof shall have no official membership on the board or the executive committee of the commission, except as hereinafter provided in this section. In such event the commission shall organize and operate within Pennsylvania, then the Governor of Pennsylvania is authorized to appoint three rather than one member of the commission until the State of New Jersey shall become a party to this compact.

[During any interim when the Delaware Valley Regional Planning Commission shall be a public agency of this Commonwealth only, as provided for in this section, the Pennsylvania members of the commission, with the approval of the Governor, are hereby authorized to enter into agreements with the Department of Highways and the Department of Conservation and Economic Development of New Jersey, in such manner and form as provides ad hoc eligibility to New Jersey for the several Federal aids involved in the planning process which is the subject of this act. If such agreement or agreements provide for a payment by the proper agencies of New Jersey of an amount totaling at least twenty percent of the program costs to be paid by Pennsylvania and New Jersey, New Jersey shall have the same voting rights as if it had enacted this act to create an interstate compact, and the appointees of the Governors shall be limited to one from each state. No such agreements may exceed in their terms one fiscal year.] Until the State of New Jersey enacts legislation adequate to the consummation of the Interstate Compact set forth in Article I

of this act, the Pennsylvania members of the commission, with the approval of the Governor, are hereby authorized to enter into an agreement with the appropriate officials of the State of New Jersey to effectuate the general purposes of the Delaware Valley Regional Planning Commission as set forth in this act. Such agreement shall be in such manner and form as shall be necessary to provide the continued eligibility of the Commonwealth of Pennsylvania and the State of New Jersey for the several Federal aids involved in the planning process which is the subject of this act. And such agreement shall not extend beyond July 1, 1968.

At such time as New Jersey shall enact this act to create an interstate compact, then the commission shall organize as expressed herein and the appointees of the Governors shall be limited to one from each state.

Section 3. Construction and Severability.—The provisions of this act and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be unconstitutional or the applicability thereof to any signatory party, local governmental body, agency or person is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to any signatory party, local governmental body, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed.

Section 4. When Compact Becomes Effective.—This compact shall become binding and effective immediately upon final enactment by the legislatures of the signatory parties. The compact shall be signed and sealed in six duplicate original copies by the respective Chief Executives of the signatory parties. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the commission upon its organization. The signatures shall be affixed and attested under the following form:

In Witness Whereof, and in evidence of the adoption and enactment into law of this compact by the legislatures of the signatory parties the Governors thereof do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies attested by the respective Secretaries of State, and have caused the seals of the respective states to be hereunto affixed this day
of

PART II

Section 1. Repealer.—All acts and parts of act inconsistent with any provision of this act are to the extent of such inconsistency repealed.

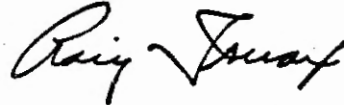
Section 2. Effectuation by Chief Executives.—The Chief Executive is authorized to take such action as may be necessary and proper in his discretion to effectuate the compact and the initial organization and operation of the commission thereunder.

Section 3. Effective Date.—This act shall take effect [July 1, 1965] immediately.

APPROVED—The 30th day of June, A. D. 1967.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 43.

A handwritten signature in cursive script, appearing to read "Ray P. Shafer".

Secretary of the Commonwealth.