

TO: Lester K. Fryer, Chairman, Local Government Committee

FROM: John H. Broujos, Counsel

SUBJECT: House Bill 355, Printer's No. 386 - Counties--providing for utilization of subsurface waters.

REF: 16 PS 1999c

ACT AND MUNICIPALITIES AFFECTED: All Counties under the County Code; Act of August 9, 1955, PL 323, Article XIX, Section 1999c.

On October 21, 1965, the County Code was amended to provide for appropriations for reservoirs and water resources. Paragraphs (a), (b), and (c) of the present bill are substantially the same as the 1965 act, with modification to permit purchase, lease, and operations connected with subsurface waters. However, subparagraph (d) of the bill is added.

RELATED LEGISLATION: In the 1970 Session, legislation was enacted authorizing entry into agreements between a county and an authority and other provisions similar to subparagraphs (d) and (e) of the present bill.

Act 133, Session of 1970 (formerly Senate Bill III8); 53 PS 2233. More accurately, the 1970 amendment, as embodied in Act 133, merely deleted reference to counties of the second class, to permit any county to so contract with an authority.

PROVISIONS:

Purpose: To permit any county to borrow, appropriate, and expend money where the construction, acquisition by purchase, lease or otherwise, operation and maintenance of dams, reservoirs, wells, and subsurface water resources; and further providing for county to enter into agreement with an authority concerning such facilities and further authorizing any county to enter into agreement with any municipality or authority at reasonable rates for sale of water.

Section 1 (Section 1999c): This section adds to the existing powers of any county board of commissioners the power to own and operate wells and subsurface resources and related facilities.

Subparagraph (d) makes it lawful for any county to execute agreements and contracts with an authority for operation of facilities and selling or leasing facilities to an authority; the signing and pledging authority rentals; and assignment to such authority of the power to charge and collect rates. The section also permits a county to enter into an agreement and contract for the sale of water with any other municipality at reasonable rates.

COMMENT: Subsection (d) authorizes a county to assign to an authority "its power to charge and collect" rentals, rates, and charges. This is a delegation of a county's authority to a municipal authority. An authority already has the power to charge and collect rentals and rates in the area served by its facilities. There does not appear in the Municipality Authorities Act of 1945 any authorization to charge rates for facilities leased to the authority. This provision assigns to an authority the county's power to charge and collect the rates. The General Assembly has the power to authorize such assignment.

COMMENT: This bill amends the County Code and authorizes any county to have such said powers with respect to contracting with an authority with respect to dams, reservoirs, wells, and surface and subsurface water resources. The General Assembly enacted in Act 133 of Session of 1970 the power in any county along with the existing power in other municipalities for agreements with an authority. This pertained to sewer systems only. The present bill extends this power to counties only, since the existing provision for authority with respect to dams, reservoirs, and surface waters pertained only to counties.

UPDATE: 4-27-71

On April 27, 1971, the Committee reported out House Bill 355 as amended to strike the words "charge and" on page 3, line 6, to provide that a county may only assign its power to collect rents and not to delegate its power to charge them.