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# Private Acts of 1980 Chapter 297

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Sincerely,

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# Private Acts of 1980 Chapter 297

**SECTION 1.** In order to facilitate transportation in Lake County, and to promote the navigation on the Mississippi River which borders Lake County, and to facilitate the movement and transfer of people, goods and merchandise, to, from, at and through the county of Lake, and to fully utilize the natural resources of Lake County, so that the same may be shipped and transported, and to provide for internal improvement in the development of the resources of Lake County and the state of Tennessee, and to promote the happiness and prosperity of the citizens, there is hereby established in Lake County, Tennessee, a Port Authority, to be known as "The Port Authority of Lake County, Tennessee," hereinafter designated as the "Port Authority," for the purpose of acquiring, constructing, operating and maintaining port and harbor facilities, ports, docks, wharves, piers, loading and unloading machinery, equipment and facilities, harbor and river front improvement, storage and transfer facilities, elevators, terminal and terminal facilities, navigation facilities, railroads, truck and track scales, switch yards, concentration yards, roads and bridges, truck and bus lines, airports and aircraft landing facilities, communication facilities related or incidental to such port and other facilities, or one or more or a combination of the same, and to provide that the same shall be under the jurisdiction, control and management of such Port Authority, to be constructed and conducted as provided for in this Act.

**SECTION 2.** The development, maintenance, and operation of such facilities are hereby declared to be essentially public and governmental functions. The powers herein granted in connection therewith, are declared to be public and corporate purposes and matters of public necessity.

**SECTION 3.** The Port Authority shall consist of the Port Authority Commissioners, also known as The Board of Commissioners of the Port Authority, who shall be five (5) in number, and such subordinate officers and employees as may be selected by such Port Authority Commissioners, as hereinafter provided.

**SECTION 4.** The Port Authority Commissioners shall have power, and they are hereby authorized:

- (a) To acquire, construct, purchase, operate, maintain, replace, repair, rebuild, extend and improve, within the limits of Lake County and the state of Tennessee, or on the Mississippi River in any other state or partly within any other state, the port and other facilities, described in Section 1 hereof and any and all related facilities, equipment and appurtenances, necessary or convenient to the improvement of the access of Lake County, Tennessee, to all channels of commerce, and to make such facilities available to any person, firm, public or private corporation, to any other shipper, consignee or carrier, and to charge for their use and for any and all services performed by the Authority.
- (b) To accept donations to the Authority of cash, lands, or other property to be used in the furtherance of the purposes of this Act.
- (c) To accept grants, loans or other financial assistance from any federal, state, county or municipal agency or in aid of the acquisition or improvement of any of the facilities herein provided for.
- (d) To purchase, rent, lease or otherwise acquire any and all kinds of property, real, personal or mixed, tangible or intangible, and whether or not subject to mortgages, liens, charges or other encumbrances, for Lake County, which, in the judgement of the Port Authority Commissioners, is necessary or convenient to carry out the powers herein granted.
- (e) To make contracts and execute instruments containing such covenants, terms and conditions, as, in the judgement of the commissioners, may be necessary, proper or advisable for the purpose of obtaining grants, loans or other financial assistance from any federal or state agency, for or in the aid of the acquisition or improvement of the facilities herein provided for; to make all other contracts and execute all other instruments including, without limitations, licenses, long or short term leases, mortgages and deeds of trust, and other agreements relating to property and facilities under its jurisdiction, and the construction, operation, maintenance, repair and improvement thereof, as in the judgment of the commissioners may be necessary, proper or advisable for the furtherance of the purposes of this Act, and the full exercise of the powers herein granted; and to carry out and perform the covenants, terms and conditions of all such contracts or instruments.
- (f) To establish schedules of tolls, fees, rates, charges and rentals for the use of the facilities under its jurisdiction, and for services which it may render.
- (g) To enter upon lands, waters and premises for the purpose of making surveys, soundings and examination in connection with the acquisition, improvement, operation or maintenance of any of the facilities herein provided for.
- (h) To promulgate and enforce such rules and regulations as the Port Authority Commissioner may

deem proper, for the orderly administration of The Port Authority, and efficient operation of its facilities.

(i) To do all acts and things necessary, or deemed necessary or convenient to carry out the powers expressly given in this Act.

**SECTION 5.** Except as otherwise expressly provided in this Act, The Port Authority Commissioners shall have full and exclusive control of and responsibility for the administration of facilities constructed or acquired pursuant to this Act; provided, however, that said Authority may lease or license lands or facilities under its jurisdiction, for operation by private persons or corporations, as provided in Section 4(e) of this Act.

**SECTION 6.** The Port Authority is hereby authorized and empowered to condemn on behalf of and in the name of Lake County, Tennessee, any land, easements or rights of way, that, in the opinion of The Port Authority Commissioners, are necessary or convenient to carry out the purposes of this Act. Title to property so condemned shall be taken in the name of Lake County, and the property shall thereafter be entrusted to The Port Authority, as the agent of Lake County, to accomplish the purpose of this Act. Such condemnation proceedings shall be pursuant to and in accordance with Section 23-1401 [29-16-101] through 23-1525 [29-17-713], inclusive, of Tennessee Code Annotated, or as the same may be hereafter amended, or other eminent domain laws of the state of Tennessee, that may be hereafter enacted; provided, however, that where title to any property sought to be condemned, is defective, it shall be passed by the judgment or decree of the court; provided further, that where condemnation proceedings become necessary, the court in which any such proceedings are filed, shall, upon application by The Port Authority, and upon posting of a bond with the clerk of the court, in such amount as the court may deem commensurate with the value of the property, order that a writ of possession shall issue immediately, or as soon and upon such terms as the court, in its discretion, may deem proper and just.

**SECTION 7.** Bonds issued pursuant to this Act, and income therefrom, shall be exempt from all state, county and municipal taxation, except inheritance, transfer and estate taxes. So long as title to land or rights therein acquired, or facilities constructed or acquired pursuant to this Act, remains in the county of Lake, such property, and the income therefrom, shall be exempt from all state, county and municipal taxation, provided, however, that such exemption shall not extend to the leasehold or other interest in such property which may be held by any private person.

**SECTION 8.** Neither Lake County, The Port Authority nor the Port Authority Commissioners, shall be required to obtain any certificate of convenience or necessity, franchise, license, permit or authorization from any bureau, board, commission or other like instrumentality of the state of Tennessee, or any political subdivision thereof, in order to acquire, construct, purchase, operate or maintain any of the facilities authorized by this Act.

**SECTION 9.** Neither the Tennessee Public Service Commission, nor any other board or commission of like character, hereafter created, shall have jurisdiction over The Port Authority, with respect to the management and control of the facilities authorized by this Act, including the establishment of rates, fees and charges or otherwise.

**SECTION 10.** The initial members of the Board of Commissioners of The Port Authority, shall be elected by the county legislative body of Lake County for terms of five (5) years or until their successors are duly elected and qualified. The county legislative body at the expiration of the term of The Port Authority Commissioners, shall elect their successors from among seven (7) nominees for the office, whose names shall be submitted to such legislative body by the Board of Commissioners of The Port Authority, and whose names shall be filed with the county clerk not less than thirty (30) days prior to the expiration of the term of the Board of Commissioners; provided, however, that the county legislative body by a three-fourths (3/4) vote of all the members of such legislative body may elect a successor Board of Commissioners not nominated by the Board of Commissioners of The Port Authority.

In the event of the death or resignation of a Port Authority Commissioner prior to the expiration of his term, his successor shall be elected for the unexpired term by the county legislative body from among seven (7) nominees for the office, whose names shall be submitted to the county legislative body of Lake County by the remaining Port Authority Commissioners not less than thirty (30) days prior to the meeting of such legislative body and such successor Port Authority Commissioner shall be elected from the unexpired term of the deceased or retiring Port Authority Commissioner. All Port Authority Commissioners shall be eligible for re-election. Before entering upon their duties, all Port Authority Commissioners shall take and subscribe to an oath of office, as provided by the Constitution and law for county officers, and the same shall be filed with the county clerk.

A majority of the Port Authority Commissioners shall constitute a quorum and such commissioners shall act by vote of a majority present at any meeting attended by a quorum, and vacancies among the

commissioners shall not affect their power and authority, so long as a quorum remains. Within thirty (30) days after this Act becomes effective, The Port Authority Commissioners shall hold a meeting to elect a chairman. The Port Authority Commissioners shall hold regular meetings at least once every ninety (90) days, and at such regular time and place as the commissioners may by resolution determine, and may hold such additional meetings either regular or special, as may be determined necessary by the commissioners.

Special meetings may be called and held upon such notice and in such manner as The Port Authority Commissioner may, by resolution, determine. Save as otherwise expressly provided, the Port Authority Commissioners shall establish their own rules of procedure. The Port Authority Commissioners shall designate a secretary and a treasure, or the same individual as secretary and treasurer, and such secretary and/or treasurer, may or may not be a commissioner of commissioners. The secretary shall attend all regular and special meetings and keep minutes thereof. The minutes of said meetings shall be available for inspection by the public at the office of The Port Authority, at all reasonable times.

The Port Authority Commissioners, by resolution, shall require the treasurer or secretary-treasurer, if he is one and the same person, to execute a bond with approved corporate surety, for the faithful performance of his duties and the accounting of all monies and revenues that may come to his hands, as such, in such penalty as the commissioners shall specify, by resolution. Such bond shall be filed with the county clerk and registered in the Register's Office, as required of county officers.

The Port Authority Commissioners, by resolution, may require all other subordinate officers, or employees, to execute such fidelity bond for the faithful performance of their duties and the accounting of funds that may come to their hands, in such an amount, with such conditions and such sureties, as The Port Authority Commissioners may determine. All members of the Board of Commissioners shall serve as such without compensation, but they shall be allowed necessary traveling and other expenses while engaged in the business of The Port Authority, as may be provided and approved by the board, payable from the funds of The Port Authority, or such funds as may be appropriated by the county legislative body. The members of the Board of Commissioners shall be paid such amount for attendance at board meetings as may be fixed by resolution of the county legislative body.

**SECTION 11.** The Port Authority Commissioners shall be removable only for good cause, and after preferment of charges, as provided by law for county officers.

**SECTION 12.** The Port Authority Commissioners shall be authorized to employ and fix the compensation of such architects, attorneys, engineers, superintendents, consultants, professional advisors and other subordinate officers and employees, as may be necessary for the efficient management and operation of The Port Authority, and the operation of the facilities provided for in this Act, and who shall continue in the employment of The Port Authority, at the will and pleasure of The Port Authority Commissioners.

**SECTION 13.** Lake County shall have power and authority to issue and sell its bonds to finance the acquisition, construction, improvement and/or expansion of the facilities herein authorized, and to refund bonds previously issued, or refinance indebtedness previously incurred for such purposes. Lake County may, in all respects, provide for the rights of the holders of all bonds, including the manner in which future bonds may be issued on a parity with such bonds.

The bonds may be issued in one or more series, may bear such date or dates, may mature at such time or times, not exceeding forty (40) years from their respective dates, may be in such denomination or denominations, may be in such form either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be sold or hypothecated in such blocks, may be subject to such terms of redemption with or without premium, may be declared or become due after the maturity date thereof, and may be in such amount as may be provided by resolution or resolutions of the county legislative body.

Such bonds may be issued for money or property, at public or private sale, for such price or prices and at such rate or rates of interest, and may be hypothecated in such manner as the county legislative body may determine, but the interest cost to maturity of the bonds, when issued for property (at the value determined by the county legislative body, which determination shall be conclusive,) or the money received for any issue of such bonds, shall not exceed the maximum rate fixed by law, payable semiannually. Such bonds shall have all the qualities and incidents of negotiability.

Pending the preparation of the definitive bonds, interim receipts or certificates in such form, and with such provisions, as the county legislative body may determine, in the resolution authorizing such bonds, may be issued to the purchaser or purchasers of bonds sold pursuant to this Act. Said bonds and interim receipts of certificates, shall be fully negotiable.

In case any of the officers, whose signatures or counter-signatures, appear on such bonds shall cease to be such officers before the delivery of the bonds, such signatures and countersignatures shall nevertheless

be valid and sufficient for all purposes, the same as though such officers had remained in office until the bonds had been delivered. Such bonds may be issued, notwithstanding and without regard to any limit or restriction on the amount or percentage of indebtedness, or of outstanding obligations of Lake County, contained in any other statute, general or special, and notwithstanding and without regard to the requirements of any other general or special statute, including requirements as to elections for the approval of such bonds.

In the case of bonds payable solely out of the revenues of The Port Authority, it shall be the duty of the county legislative body to provide, by resolution, for the issuance of such bonds, as requested by The Port Authority Commissioners.

Prior to a vote by the county legislative body authorizing the issuance of bonds to be financed wholly or in part through tax levies by such county legislative body, The Port Authority Commissioners shall prepare and submit to such county legislative body a recommendation that bonds in a stated amount be issued hereunder, supported by a report on the need for, and projected use of the facilities for the financing of which such bond issue is proposed, including a review of alternate solutions, if any, and a justification of the solution proposed.

Bonds may be issued as direct and general obligations of Lake County, payable out of its general income and revenue, or at the election and subject to the determination of The Port Authority Commissioners, may be made payable only out of the revenues from the facilities of The Port Authority. In case the bonds are issued as general obligations of the county, it shall be the duty of the county legislative body to levy a tax each year, over and above the taxes levied for general county purposes, to pay the interest and principal of such bonds, as they mature, provided, however, that in case the revenues derived from the operation of the facilities herein provided for, are sufficient to pay the interest and principal of such bonds or a part thereof, as they may severally mature, then a special levy for the full payment of such interest and principal shall not be required, but the county legislative body shall each year levy an amount of tax, which, when added to the amount of revenue derived from the operation of said facilities then on hand and available for that purpose will be sufficient to pay the interest and principal maturing prior to the collection of the next succeeding tax levy. The bonds shall be sold at public or private sale, and in such manner as may be determined by resolution of the county legislative body authorizing their issuance and such bonds shall contain a recital that they are issued pursuant to and in accordance with this Act, and such recital shall be conclusive evidence of their legality.

**SECTION 14.** In order to secure the payment of any of the bonds issued pursuant to this Act, the interest thereon, or in connection with such bonds, the county legislative body shall have power, as to such bonds, to the extent not inconsistent with the mandatory provisions of this Act:

- (a) To pledge the full faith and credit and unlimited taxing power of Lake County to the punctual payment of the principal of and interest of such bonds.
- (b) To pledge all or any part of the revenue derived from the operation of the facilities herein authorized.
- (c) To provide for the terms, from registration, exchange, execution and authentication of such bonds.
- (d) To provide for the replacement of lost, destroyed or mutilated bonds.
- (e) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (f) To covenant as to the rates and charges for the use of facilities of The Port Authority, and for its services.
- (g) To redeem such bonds, and to covenant for their redemption and to provide the terms and conditions thereof.
- (h) To covenant and prescribe as to what happenings or occurrences shall constitute "events of default," and the terms and conditions upon which any or all of such bonds shall become or may be declared due, before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.
- (i) To covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation.
- (j) To vest in a trustee or trustees, the right to receive all or any part of the income and revenues pledged and assigned to or for the benefit of the holder or holders of bonds issued hereunder and to hold, apply, and dispose of the same, and the right to enforce any covenant made to secure or pay, or in relation to the bonds; to execute and deliver a trust agreement or trust agreements, which may set forth the powers and duties, and the remedies available, to such trustee or trustees, and

limit the liability thereof, and describing what occurrences shall constitute "events of default," and prescribing the terms and conditions upon which such trustee or trustees, or the holder or holders of bonds of any specific amount or percentage of such bonds, may exercise such rights and enforce any and all such covenants and resort to such remedies as may be appropriate.

(k) To make covenants other than and in addition to the covenants herein authorized, of like or different character, necessary or advisable to effectuate the purpose of this Act.

(l) To execute all instruments necessary or convenient in the exercise of the powers herein granted, or in the performance of its covenants or duties.

**SECTION 15.** Any holder or holders of bonds, including trustee or trustees for holders of such bonds, shall have the right, in addition to all other rights:

(a) By mandamus or other suit, action or proceeding in any court of competent jurisdiction, to enforce his or their rights against Lake County, the county legislative body, The Port Authority, The Port Authority Commissioners, or any other proper officer, agent or employee of any of them including, but without limitation, the right to require the county, the county legislative body, The Port Authority, The Port Authority Commissioner and any proper officer, agent or employee of any of them, to assess, levy and collect taxes, and to fix and collect taxes and charges adequate to carry out any agreements as to, or pledge of taxes or Authority revenues, and to further require Lake County, the county legislative body, The Port Authority, The Port Authority Commissioners, and any officer, agent or employee of them, to carry out any other covenants and agreements, and to perform its and their duties under this Act.

**SECTION 16.** The county legislative body of Lake County shall have power, by resolution, to confer upon any holder or holders of a specified amount or percentage of bonds, including a trustee or trustees for such holders, the rights, in the event of an "event of default," as defined in such resolution or as may be defined in any agreement with the holder or holders of such bonds, or the trustee or trustees thereof:

(a) By suit, action or proceedings in any court of competent jurisdiction, to obtain the appointment of a receiver of the Authority's facilities or any part or parts thereof. If such receiver be appointed, he may enter and take possession of such facilities or part or parts thereof, and operate and maintain the same, and collect and receive all revenues thereafter arising therefrom, in the same manner as the Authority itself might do, and shall deposit such monies in a separate account or accounts, and apply the same in accordance with the obligations of Lake County, issued under this Act, as the court may direct.

(b) By suit, action or proceedings in any court of competent jurisdiction, to require the county legislative body or the Port Authority Commissioners, to act as if they were the trustees of an express trust.

Any such resolution shall constitute a contract between Lake County and the holders of bonds of such issue.

**SECTION 17.** All expenses actually incurred by The Port Authority Commissioners in the making of surveys, estimates of cost and of revenue, employment of engineers, attorneys or other employees, the giving of notices, taking of options, selling of bonds, and all other preliminary expenses of whatever nature, which such commissioners deem necessary in connection with or precedent to the acquisition or improvement of any of the facilities herein provided for, and which they deem necessary to be paid prior to the issuance and delivery of the bonds issued pursuant to the provisions of this Act, may be met and paid out of the general funds of Lake County, not otherwise appropriated or from any other fund available, as may be provided by the county legislative body.

All such payments from the general or other funds shall be considered as temporary, noninterest bearing loans, and shall be repaid immediately upon sale and delivery of the bonds, and claim for such repayment shall have priority over all other claims against the proceeds derived from the sale of such bonds.

**SECTION 18.** The county legislative body is authorized to appropriate to The Port Authority from the general funds of Lake County, or such other funds as may be unappropriated, to pay the expenses of The Port Authority Board of Commissioners, or expenses or operation of any of the facilities authorized by this Act, and such county legislative body is authorized and empowered to levy a tax, in addition to all other taxes, upon all taxable property within the county, sufficient to pay the appropriation made by it to The Port Authority.

**SECTION 19.** All monies derived from the issuance of bonds hereunder, together with any federal or other grant or loan made, for the purpose of this Act, shall be paid to the treasurer of The Port Authority. The treasurer shall deposit such monies, together with all the receipts from the Authority operations, in a separate bank account or accounts, separate from all other county funds, and shall keep adequate record

of all such receipts and their sources. The treasurer shall pay out such monies only on vouchers signed by such Authority officials as The Port Authority Commissioners shall, by resolution designate to sign such vouchers. No such vouchers for the payment of any such monies shall be issued except upon the resolution or order of The Port Authority Commissioners, a certified copy of which shall be filed in the office of the treasurer.

**SECTION 20.** The revenues derived from the operation of the port, storage and transfer facilities, and any and all other facilities herein authorized, shall be applied and used as follows:

- (1) The payment of all operating expenses of The Port Authority.
- (2) The payment of the interest on the bonds issued pursuant to the provisions of this Act, and the principal of said bonds, as they severally mature, and/or payments into the sinking funds reserves for this purpose.
- (3) The establishment of necessary reserves for contingencies, depreciation, maintenance, replacement of said port, storage, transfer facilities and any and all other facilities or other purposes, as may be required under any bond indenture or as The Port Authority Commissioners may deem necessary or desirable.
- (4) Any revenue remaining after all the above items have been provided for, shall be held and used for the further development of and for additions to the Authority facilities, and for the acquisition or construction of new facilities, which may become necessary or desirable to further the purposes of the act. None of such revenue shall go to the general funds of Lake County, except as may be directed by The Port Authority Commissioners.

**SECTION 21.** Except as otherwise herein expressly provided, all contracts of The Port Authority shall be entered into and executed in such manner as may be prescribed by The Port Authority Commissioners, but no contract or acquisition by purchase, of equipment, apparatus, materials or supplies, involving more than five hundred dollars (\$500), or for construction, installation, repair or improvement of the property or facilities, under the jurisdiction of The Port Authority Commissioners, involving more than one thousand dollars (\$1,000) shall be made except after such contract has been advertised for bids, provided that advertisement shall not be required when:

- (1) An emergency required immediate delivery of the supplies or performance of the service; or (2) Repair, parts, accessories, supplemental equipment or services are required for supplies, or services previously furnished or contracted for, in which case such purchase of supplies or procurement of services shall be made in the open market in the manner common among businessmen.

In comparing bids and in making awards, The Port Authority Commissioners may consider such features as quality and adaptability of supplies or services, the bidders' financial responsibility, skill, experience, record of integrity in dealing, ability to furnish repair and maintenance service, the time of delivery, or performance offered, and whether the bidder has complied with the specifications.

In the employment of architects, engineers and attorneys, or other professional advisors for personal service, no advertisement or bids shall be required, but The Port Authority Commissioners may employ or select such architects, engineers, attorneys, or professional consultants and advisors, as in the judgement of such commissioners best meet the qualifications for rendering such services.

After advertisement for bids, as provided for in this section, if no acceptable bid is received, The Port Authority Commissioners may reject any and all bids, or such commissioners may negotiate with contractors or suppliers, to secure the construction of facilities, or the purchase of equipment, apparatus, materials or supplies at the best possible price, or such commissioners may construct such facilities, by "Force Account Construction," that is, such commissioners may employ the necessary engineers, supervisors and other personnel, purchase necessary materials, equipment and supplies, to construct such facilities authorized by this Act, with its own employees.

**SECTION 22.** The Port Authority may use any property, right of way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of the facilities herein authorized, held by the state of Tennessee, any county or municipality in the state of Tennessee, provided such municipality shall consent to such use.

**SECTION 23.** The county legislative body with the approval of The Port Authority Commissioners, may dispose of all or substantially all of the land and real property acquired under the provisions of this Act, upon a vote for such disposal, of a majority of all the members of such county legislative body. Any such vote shall be taken at a meeting duly and regularly called for the purpose of considering the question of the disposition of such property.

The Port Authority Commissioners may dispose of personal property of the Authority, when, in the



judgement of said Port Authority Commissioners, it is advantageous to or necessary, for the efficient operation of the Authority, to dispose of the same, or when such personal property is being replaced by new or more efficient property of like character, or when such personal property is no longer necessary for the operation of the Authority.

**SECTION 24.** The powers, authority, and rights conferred by this Act shall be in addition and supplemental to, and the limitations imposed by this Act shall not affect the powers conferred by any other general, special or local law.

**SECTION 25.** If any clause, sentence, paragraph, section or any part of this Act shall be held or declared to be unconstitutional, and void, it shall not affect the remaining part or parts of this Act, it being hereby declared to be the legislative intent to have passed the remainder of this Act, notwithstanding the part held to be invalid, if any.

**SECTION 26.** This Act is remedial in nature, and shall be liberally construed, to effect its purpose of facilitating the removal and transfer of people, products and goods to, from, at and through Lake County, and to improve the access of Lake County to all channels of commerce, and to encourage the industrial development and growth of Lake County, and the use of the natural resources of Lake County, including the navigation of the Mississippi River.

**SECTION 27.** This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the county legislative body of Lake County before September 6, 1980. Its approval or nonapproval shall be proclaimed by the presiding officer of the county legislative body of Lake County and certified by him to the Secretary of State.

**SECTION 28.** For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 27.

Passed: April 16, 1980.

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