

OFFICIAL OPINION NO. 81-4

General Obligation Bonds—Issue and Sale of—Validity—Full Faith and Credit of the Commonwealth pledged for the Payment of the Principal and Interest.

1. The \$75,000,000 principal issuance of Commonwealth of Pennsylvania General Obligation Bonds, First Series S of 1981 have been validly authorized, issued and sold in accordance with Article VIII of the Pennsylvania Constitution and the enabling acts of the Commonwealth.
2. The bonds are lawful, valid, direct and general obligations of the Commonwealth pledging the full faith and credit of the Commonwealth.
3. Under existing law the Bonds, their transfer and the income therefrom are exempt from taxation for state and local purposes.

June 4, 1981

To The Purchasers of the Within Described Bonds:

Re: Commonwealth of Pennsylvania
\$75,000,000 General Obligation Bonds,
First Series S of 1981

This opinion* is furnished to you in connection with the issue and sale by the Commonwealth of Pennsylvania on the date hereof of \$75,000,000 principal amount of Commonwealth of Pennsylvania General Obligation Bonds, First Series S of 1981 (the "Bonds"), dated May 15, 1981 and maturing serially in varying amounts on November 15 of each year, commencing November 15, 1981. The Bonds have been issued as coupon bonds, registrable as to principal only, in the denomination of \$5,000 each. Bonds maturing on and after November 15, 1991 are subject to redemption on and after May 15, 1991 as a whole at any time, or from time to time in part on any interest payment date in the inverse order of their stated maturity dates.

Under Section 7(a)(4) of Article VIII of the Constitution of Pennsylvania (the "Constitution") the Commonwealth may incur debt without the approval of the electors to finance capital projects which have been specifically itemized in a capital budget of the Commonwealth if such debt will not cause the amount of all net debt outstanding (as defined for the purposes of that Section) to exceed one and three-quarters times the average of the annual tax revenues deposited in the previous five fiscal years, as certified by the Auditor General. The Bonds are authorized by and have been issued and sold pursuant to (i) the aforesaid Sec-

*Editor's Note—No. 81-4 is the first opinion issued by LeRoy S. Zimmerman, Attorney General.

tion 7(a)(4) of Article VIII of the Constitution, (ii) the Capital Facilities Debt Enabling Act, being Act No. 217 of the 1968 Session, approved July 20, 1968, P.L. 550, *as amended*, 72 P.S. § 3901.1 *et seq.*, (iii) Act No. 145 of the 1980 Session, approved October 6, 1980, P.L. 784, *as amended*, which Act and its supplements constitute the Capital Budget Act of 1980-1981 Fiscal Year, (iv) certain capital budget acts and debt authorizing acts relating to capital projects (all of the foregoing, being hereinafter collectively called the "Acts") and (v) certain preambles and resolutions adopted by the Governor, the Auditor General and the State Treasurer pursuant to the authority vested in them by the foregoing constitutional and statutory provisions.

I have examined Article VIII, Section 7 of the Constitution, the Acts, a specimen Bond, the preambles and resolutions referred to above, a certificate of the Governor, the Auditor General and the State Treasurer as to the expectations of the issuer with regard to the Bonds as is relevant under Section 103(c) of the Internal Revenue Code of 1954, *as amended*, pertaining to arbitrage bonds, the other certificates delivered today at the Closing and such other matters and documents as I deemed necessary or appropriate.

I am of the opinion that:

1. Section 7 of Article VIII of the Constitution has been duly approved and adopted and has become part of the Constitution of Pennsylvania, and the Acts have been duly and properly enacted.
2. Pursuant to full and adequate legal power conferred upon them by the Constitution and the Acts, the Governor, the Auditor General and the State Treasurer have duly adopted the preambles and resolutions referred to above and have validly taken all other necessary and proper action to issue and sell the Bonds, and the Bonds have been validly authorized, issued and sold pursuant to proper and appropriate action of such officials.
3. The Bonds are lawful, valid, direct and general obligations of the Commonwealth of Pennsylvania, and the full faith and credit of the Commonwealth are pledged for the payment of interest thereon as the same shall become due and the payment of the principal thereof at maturity.
4. Under existing law the Bonds, their transfer and the income therefrom (including any profits made on the sale there-

of) are exempt from taxation for state and local purposes within the Commonwealth of Pennsylvania, but this exemption does not extend to gift, succession or inheritance taxes or any other taxes not levied or assessed directly on the Bonds, their transfer or the income therefrom.

5. The Commonwealth of Pennsylvania has the power to provide for the payment of the principal of and interest on the Bonds by levying unlimited ad valorem taxes upon all taxable property within the Commonwealth and excise taxes upon all taxable transactions within the Commonwealth, uniform on the same class of subjects, except gasoline and other motor fuel excise taxes, motor vehicle registration fees and license taxes, operators' license fees and other excise taxes imposed on products used in motor transportation, the proceeds of which are limited to certain special purposes by Section 11 of Article VIII of the Constitution.

6. If sufficient funds are not appropriated for timely payment of interest on and installments of principal of the Bonds, the Constitution requires the State Treasurer to set apart from the first revenues thereafter received applicable to the appropriate fund a sum sufficient to pay such interest and installments of principal and to apply said sums to such purposes, and the State Treasurer may be required so to set aside and apply such revenues at the suit of the holder of any of the Bonds.

Very truly yours,

LEROY S. ZIMMERMAN
Attorney General

OFFICIAL OPINION NO. 81-5

Liquor Code—Distributor Licensee—Purchase and Sale of Malt or Brewed Beverages Produced by out-of-state Manufacturers—Geographical Territory granted to the Importing Distributor Licensee.

1. A distributor licensee licensed pursuant to the Liquor Code may sell out-of-state manufacturers' malt or brewed beverages anywhere within the Commonwealth and are not limited to the geographical territory granted to the importing distributor from whom he has purchased such beverages.