

AMENDMENTS TO SENATE BILL NO. 817

Sponsor: REPRESENTATIVE MARKOSEK

Printer's No. 1249

1 Amend Bill, page 1, line 4, by striking out the period after
2 "County" and inserting
3 ; authorizing the Department of General Services, with the
4 concurrence of the Department of Environmental Protection, to
5 lease to Pier 35 1/2 LLC, or its nominee, land within the bed
6 of the Delaware River in the City of Philadelphia; and
7 authorizing the Department of General Services, with the
8 concurrence of the Department of Environmental Protection, to
9 lease to Penn Treaty Views LLC, or its nominee, land within
10 the bed of the Delaware River in the City of Philadelphia.

11 Amend Bill, page 2, by inserting between lines 4 and 5

12 Section 2. Land within the Delaware River bed and 709-711 Penn
13 Street, City of Philadelphia.

14 (a) Authorization.--The Commonwealth owns the lands within
15 the bed of the Delaware River, a portion of which lands are
16 located in the 5th Ward of the City of Philadelphia, and
17 includes lands commonly known as 709 - 711 Penn Street, Pier No.
18 35 1/2 North. The Department of General Services, with the
19 concurrence of the Department of Environmental Protection,
20 acting on behalf of the Commonwealth, is authorized to lease,
21 for consideration, to Pier 35 1/2 LLC, or its nominee
22 (hereinafter "lessee") for an initial term of 99 years, land
23 within the bed of the Delaware River in the City of
24 Philadelphia, and to extend the period for all or any portion of
25 the leased premises for an additional term of up to 99 years.

26 (b) Description of property.--The land to be leased is more
27 particularly described as follows:

28 ALL THAT CERTAIN lot or piece of ground together with the
29 improvements thereon erected, situate in the 5th Ward of the
30 City of Philadelphia, Pennsylvania and shown on a Boundary and
31 Topographic Survey made for Pier 35 1/2, LLC, Penn Street &
32 Fairmount Avenue, Pier 35 N, Lot 9, Map 5 N 4, 5th Ward, City &
33 County of Philadelphia, Commonwealth of Pennsylvania by Control
34 Point Associates, Inc., dated February 3, 2005 and more
35 particularly described as follows to wit:
36 Beginning at a point on the dividing line Between Lot 9, Map 5 N
37 4, lands now or formerly Berman and Lot 16, Map 6 N 6, lands now

1 or formerly Isle of Capri Associates, L.P., Said point being
2 distant the following two (2) courses and distances from the
3 intersection and southeasterly right-of-way line of Penn Street
4 (60 foot wide right-of-way, legally open) and the easterly
5 right-of-way line of Delaware Avenue (A.K.A. Christopher
6 Columbus Boulevard, A.K.A. SR. 2001, 150 foot wide right-of-way,
7 legally open):

8 A. Along the southeasterly right-of-way of Penn Street,
9 North 43 degrees 30 minutes 00 seconds East, a distance of
10 140.229 feet to a drill hole, THENCE;

11 B. Along the dividing line between Lot 9, Map 5 N 4 and
12 Lot 16, Map 6 N 6, South 47 degrees 02 minutes 00 seconds
13 east, a distance of 194.573 feet to the true point and place
14 of beginning and from said point of beginning running,
15 THENCE;

16 The following two (2) courses and distances along the dividing
17 line between Lot 9, Map 5 N 4 AND Lot 16, Map 6 N 6:

18 1. South 67 degrees 54 minutes 00 seconds East, a
19 distance of 125.667 feet to a point, THENCE;

20 2. South 46 degrees 04 minutes 40 seconds East, a
21 distance of 361.500 feet to a point on the northeasterly
22 right-of-way line of Fairmount Avenue (62 foot 2 inch wide
23 right-of-way, not open, not on the city tax registry), said
24 point is 53.976 feet on a bearing North 71 degrees 40 minutes
25 00 seconds West from the pierhead line of the Delaware River
26 (established January 5, 1894, Approved by the Secretary of
27 War September 10, 1940), THENCE;

28 3. Along the northeasterly right-of-way line of
29 Fairmount Avenue, North 71 degrees 40 minutes 00 seconds
30 West, a distance of 527.937 feet to a point on the Bulkhead
31 line of the Delaware River, (established January 5, 1894,
32 approved by the Secretary of War September 10, 1940), THENCE;

33 4. Along the Bulkhead line of the Delaware River, North
34 43 degrees 17 minutes 06 seconds East, a distance of 181.316
35 feet to the point and place of BEGINNING.

36 CONTAINING 51,839 SQUARE FEET OR 1.19006 ACRES

37 (c) Lease agreement.--The lease and any other documents
38 provided for under this act shall be approved as to form and
39 legality by the Attorney General and Office of General Counsel
40 and shall be executed by the Department of General Services,
41 with the concurrence of the Department of Environmental
42 Protection, in the name of the Commonwealth. The lease shall
43 grant the lessee, and the successors, assigns and sublessees,
44 the right to use the premises described in subsection (b), or to
45 assign the lease or sublease or permit the sublease of premises
46 described in subsection (b) for the purposes of the proposed
47 development of 41 townhouses, each with parking for two cars, 21
48 of which parking spaces are in the leased area or such other
49 uses as may be permitted in accordance with applicable law,
50 including, but not limited to, municipal land use regulations.

51 (d) Sublease.--The Department of General Services, with the

1 concurrence of the Department of Environmental Protection,
2 acting on behalf of the Commonwealth, is also authorized to
3 enter into one or more nondisturbance agreements with any
4 sublessee of the premises described in this section pursuant to
5 which the Commonwealth will agree that, if the Commonwealth
6 succeeds to the interest of the sublessor under a sublease, it
7 will not terminate the sublease unless the sublessee is in
8 default.

9 (e) Land use restriction.--The leases authorized or referred
10 to under this section shall include the condition that no
11 portion of the parcels may be used as a licensed facility as
12 defined in 4 Pa.C.S. § 1103 (relating to definitions) or any
13 other similar type of facility authorized under the laws of this
14 Commonwealth and shall provide that the condition shall be a
15 covenant running with the land and shall be binding upon the
16 lessee and sublessees and their respective successors and
17 assigns and, should a portion of a parcel authorized to be
18 leased under this act be used in violation of this subsection,
19 the lease shall terminate immediately.

20 (f) Improvements.--

21 (1) The Department of General Services is authorized to
22 execute, on behalf of the Commonwealth, any declaration or
23 other document necessary to submit the premises described in
24 subsection (b) or a portion of the premises and any
25 improvements on the premises to the provisions of 68 Pa.C.S.
26 Pt. II Subpt. D (relating to planned communities) as a
27 planned community.

28 (2) The lease agreement shall contain the following
29 terms and conditions:

30 (i) The lessee, the sublessees and their respective
31 successors and assigns, shall provide and maintain at
32 least the following free public access to the riverfront,
33 for fishing and other recreational activities and free
34 public parking in connection with the access:

35 (A) A minimum of 10 public parking spaces
36 available at all times located proximate to the
37 public walkway near the water edge and signage
38 indicating the public parking.

39 (B) Public walkways on the riverfront, including
40 water edge promenades along the entire water edge of
41 the properties and adjacent to the water, providing
42 free public access to the water and allowing for
43 passive and active recreational activities year round
44 and signage indicating the walkways are open to the
45 general public.

46 (C) Public access to the Delaware River in
47 accordance with the Delaware River Waterfront
48 Corporation Plan that is consistent with the
49 Waterfront Setback requirements specified in section
50 14-216(6)(g) of the Philadelphia Code (enacted into
51 law by an Ordinance enacting Bill No. 050465, passed

1 by the City Council on June 16, 2005, and signed by
2 the Mayor on July 8, 2005), or in accordance with
3 such other plan and such other municipal ordinance as
4 may govern such public access in the future.

5 (D) Should the lessee, a sublessee or any of
6 their respective successors or assigns wish to modify
7 the public access and parking required by the lease
8 agreement, it must obtain the prior written approval
9 of the Department of Environmental Protection and the
10 Department of General Services, which approval shall
11 not be unreasonably withheld. The public access and
12 parking shall be completed and open to the public no
13 later than the date the first tenant or resident
14 occupies the leasehold. Past actions by the lessee
15 may be the basis for a determination to modify the
16 obligations under this subsection.

17 (E) The conditions specified in this
18 subparagraph shall be covenants that run with the
19 land and shall be binding upon the lessee, any
20 sublessee and their respective successors and
21 assigns. Should the lessee, any sublessee or any of
22 their respective successors or assigns permit the
23 leasehold premises or any portion thereof, to be used
24 in a manner inconsistent with these conditions, all
25 rights and interests in the lease shall terminate
26 immediately.

27 (ii) (Reserved).

28 (g) Consideration.--The Department of General Services shall
29 lease the land within the bed of the Delaware River as described
30 in subsection (b) upon the terms, conditions and for such
31 consideration, monetary or nonmonetary, as it shall establish in
32 the lease agreement with the concurrence of the Department of
33 Environmental Protection.

34 (h) Costs and fees.--Costs and fees incidental to the lease
35 authorized under this section shall be borne by the lessee,
36 including the costs incurred by the Department of General
37 Services and the Department of Environmental Protection in the
38 preparation, execution and review of the lease, nondisturbance
39 agreements and related documents.

40 Section 3. Land within the Delaware River bed and 1143-1151
41 North Delaware Avenue, City of Philadelphia.

42 (a) Authorization.--The Commonwealth owns the lands within
43 the bed of the Delaware River, a portion of which lands are
44 located in the 5th Ward of the City of Philadelphia, and
45 includes lands commonly known as 1143-1151 North Delaware Avenue
46 and Pier No. 53 North. The Department of General Services, with
47 the concurrence of the Department of Environmental Protection,
48 acting on behalf of the Commonwealth, is authorized to lease,
49 for the consideration as shall be agreed upon by the parties, to
50 Penn Treaty Views LLC, or its nominee (hereinafter "lessee") for
51 an initial term of 99 years, land within the bed of the Delaware

1 River in the City of Philadelphia, and to extend the period for
2 all or any portion of the leased premises for an additional term
3 of up to 99 years.

4 (b) Description of property.--The land to be leased is more
5 particularly described as follows:

6 ALL THAT CERTAIN portion of property known as 1143-1151 North
7 Delaware Avenue and Pier 53 North lying between the Bulkhead
8 Line and the Pierhead Line of the Delaware River as established
9 by the Secretary of War on September 10, 1940; said portion
10 being situate on the southwesterly side of former Marlboro
11 Street (47 feet 6 inches wide - stricken and vacated by
12 Ordinance of Philadelphia City Council on September 19, 1982 and
13 confirmed by the Board of Surveyors on July 5, 1983, reserved as
14 a right of way for drainage, water main and public utility
15 purposes) in the Fifth (formerly the Eighteenth) Ward of the
16 City of Philadelphia, Commonwealth of Pennsylvania, bounded and
17 described in accordance with a Plan of Property by Allen J.
18 Bommentre, Jr., Surveyor and Regulator of the Third Survey
19 District, dated April 12, 2005, as follows:

20 BEGINNING at a point formed by intersection of the southeasterly
21 side of Delaware Avenue, (also known as Christopher Columbus
22 Boulevard-legally open on City Plan, 140' wide) and the
23 southwesterly side of former Marlborough Street (47 feet 6
24 inches wide-stricken and vacated by Ordinance of Council
25 9/29/1982, Confirmed by Board of Surveyors 7/5/1983, Reserved as
26 a Right-of-Way for Drainage, Water Main & Public Utility
27 Purposes);

28 1. FROM SAID POINT OF BEGINNING, extending S20°46'27"E along
29 the said Southwesterly side of former Marlborough Street,
30 crossing the Bulkhead line of the Delaware River at the distance
31 of 280.992', established by the Secretary of War September 10,
32 1940) the total distance of 870.298' to a point on the Pierhead
33 line of the Delaware River (established by the Secretary of War
34 September 10, 1940); THENCE,

35 2. Extending S54°04'10"W, along the said Pierhead line, the
36 distance of 57.397' to a point;
37 THENCE,

38 3. Extending N23°18'27"W (crossing the Bulkhead line of the
39 Delaware River at the distance of 589.344', established by the
40 Secretary of War September 10, 1940) the total distance of
41 877.385' to a point on the said southeasterly side of Delaware
42 Avenue;

43 THENCE,

44 4. Extending N63°51'33"E, along the said Southeasterly side of
45 Delaware Avenue (also known as Christopher Columbus Boulevard)
46 the distance of 93.833' to the first mentioned
47 POINT AND PLACE OF BEGINNING.

48 Containing: 65,226 Square Feet of land (1.49738 acres)

49 (c) Lease agreement.--The lease and any other documents
50 provided for under this act shall be approved as to form and
51 legality by the Attorney General and Office of General Counsel

1 and shall be executed by the Department of General Services,
2 with the concurrence of the Department of Environmental
3 Protection, in the name of the Commonwealth. The lease shall
4 grant the lessee, and the successors, assigns and sublessees,
5 the right to use the premises described in subsection (b), or to
6 assign the lease or sublease or permit the sublease of the
7 premises described in subsection (b) for the purposes of the
8 proposed development of 19 townhouses, each with two car
9 parking, five of which are in the leased area, or such other
10 uses as may be permitted in accordance with applicable law,
11 including, but not limited to, municipal land use regulations.

12 (d) Sublease.--The Department of General Services, with the
13 concurrence of the Department of Environmental Protection,
14 acting on behalf of the Commonwealth, is also authorized to
15 enter into one or more nondisturbance agreements with any
16 sublessee of the premises described in this section pursuant to
17 which the Commonwealth will agree that, if the Commonwealth
18 succeeds to the interest of the sublessor under a sublease, it
19 will not terminate the sublease unless the sublessee is in
20 default.

21 (e) Land use restriction.--The leases authorized or referred
22 to under this section shall include the condition that no
23 portion of the parcels may be used as a licensed facility as
24 defined in 4 Pa.C.S. § 1103 (relating to definitions) or any
25 other similar type of facility authorized under the laws of this
26 Commonwealth which shall be contained in the lease documents and
27 shall further provide that such condition shall be a covenant
28 running with the land and shall be binding upon the lessee and
29 sublessees and their respective successors and assigns and
30 should a portion of a parcel authorized to be leased under this
31 act be used in violation of this subsection, the lease shall
32 terminate immediately.

33 (f) Improvements.--

34 (1) The Department of General Services is authorized to
35 execute, on behalf of the Commonwealth, any declaration or
36 other document necessary to submit the premises described in
37 subsection (b) or any portion of the premises and any
38 improvements on the premises to the provisions of 68 Pa.C.S.
39 Pt. II Subpt. D (relating to planned communities) as a
40 planned community.

41 (2) The lease agreement shall contain the following
42 terms and conditions:

43 (i) The lessee, the sublessees and their respective
44 successors and assigns shall provide and maintain at
45 least the following free public access to the riverfront,
46 for fishing and other recreational activities and free
47 public parking in connection with the access:

48 (A) A minimum of 10 free public parking spaces
49 available at all times located proximate to the
50 public walkway near the water edge and signage
51 indicating the free public parking.

1 (B) Public walkways on the waterfront, providing
2 free public access to the water and allowing for
3 passive and active recreational activities year-round
4 and signage indicating the walkways are open to the
5 general public.

6 (C) Public access to the Delaware River in
7 accordance with the Delaware River Waterfront
8 Corporation Plan that is consistent with the
9 Waterfront Setback requirements specified in section
10 14-216(6)(g) of the Philadelphia Code (enacted into
11 law by an Ordinance enacting Bill No. 050465, passed
12 by the City Council on June 16, 2005, and signed by
13 the Mayor on July 8, 2005), or in accordance with
14 such other plan and such other municipal ordinance as
15 may govern such public access in the future.

16 (D) Should the lessee, a sublessee or any of
17 their respective successors or assigns wish to modify
18 the public access and parking required by the lease
19 agreement, it must obtain the prior written approval
20 of the Department of Environmental Protection and the
21 Department of General Services, which approval shall
22 not be unreasonably withheld. The public access and
23 parking shall be completed and open to the public no
24 later than the date the first tenant or resident
25 occupies the leasehold.

26 (E) The conditions specified in this
27 subparagraph shall be covenants that run with the
28 land and shall be binding upon the lessee, any
29 sublessee and their respective successors and
30 assigns. Should the lessee, any sublessee or any of
31 their respective successors or assigns permit the
32 leasehold premises or any portion thereof, to be used
33 in a manner inconsistent with these conditions, all
34 rights and interests in the lease shall terminate
35 immediately.

36 (ii) (Reserved).

37 (3) The provisions of this section may not affect or
38 otherwise limit the requirements of the provisions of the act
39 of November 26, 1978 (P.L.1375, No.325), known as the Dam
40 Safety and Encroachments Act, or any successor statute, which
41 may require further measures to provide for public access and
42 use of the land and adjacent water.

43 (g) Consideration.--The Department of General Services shall
44 lease the land within the bed of the Delaware River as described
45 in subsection (b) upon the terms, conditions and such
46 consideration, monetary or nonmonetary, as it shall establish in
47 the lease agreement, with the concurrence of the Department of
48 Environmental Protection.

49 (h) Costs and fees.--Costs and fees incidental to the lease
50 authorized under this section shall be borne by the lessee,
51 including the costs incurred by the Department of General

1 Services and the Department of Environmental Protection in the
2 preparation, execution and review of the lease, nondisturbance
3 agreements and related documents.

4 Amend Bill, page 2, line 5, by striking out "2" and inserting

5 4