

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2201 Session of  
1995

INTRODUCED BY GEIST, GAMBLE, ZUG, HESS, ARGALL, SCHULER, RUBLEY,  
TIGUE, STAIRS, BROWNE, SAYLOR, STERN, STEELMAN, McCALL,  
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STRITTMATTER, BROWN, DRUCE, S. H. SMITH, PETRARCA, SANTONI,  
DERMODY, MIHALICH AND ROBERTS, NOVEMBER 14, 1995

REFERRED TO COMMITTEE ON TRANSPORTATION, NOVEMBER 14, 1995

AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania  
2 Consolidated Statutes, authorizing the incurring of  
3 indebtedness, with the approval of the electorate, for loans  
4 to owners of public airports for capital improvements,  
5 facilities and equipment; providing for the creation of the  
6 Pennsylvania Airport Capital Loan Fund; adding provisions  
7 relating to rail freight preservation and improvement;  
8 establishing the Pennsylvania Railroad Authority; providing  
9 for the creation of the Pennsylvania Railway Capital Loan  
10 Fund; and making a repeal.

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

13 Section 1. The heading of Subchapter E of Chapter 61 of  
14 Title 74 of the Pennsylvania Consolidated Statutes is amended  
15 and the chapter is amended by adding a subchapter to read:

16 CHAPTER 61

17 AVIATION DEVELOPMENT

18 \* \* \*

1 SUBCHAPTER E

2 [BOND ISSUANCE]

3 ISSUANCE OF LIMITED OBLIGATION BONDS

4 \* \* \*

5 SUBCHAPTER F

6 ISSUANCE OF GENERAL OBLIGATION BONDS

7 Sec.

8 6181. Referendum.

9 6182. Bonds.

10 6183. Loans for project funding.

11 6184. Department funds.

12 § 6181. Referendum.

13 (a) General rule.--Pursuant to the provisions of section  
14 7(a)(3) of Article VIII of the Constitution of Pennsylvania, the  
15 question of incurring indebtedness of \$50,000,000 for loans to  
16 owners of public airports and airport facilities and development  
17 corporations for capital improvements, acquisition of land  
18 contiguous to existing airport property and development of same  
19 for industrial development purposes, construction of facilities  
20 and acquisition of equipment, subject to implementation through  
21 this subchapter, shall be submitted to the electors at the next  
22 primary election following the effective date of this  
23 subchapter.

24 (b) Certification.--The Secretary of the Commonwealth shall  
25 forthwith certify the question to the county boards of  
26 elections.

27 (c) Form of question.--The question shall be in  
28 substantially the following form:

29 Do you favor the incurring of indebtedness by the  
30 Commonwealth of \$50,000,000 for use as loans to owners of

public airports and airport facilities and development corporations to improve airports and airport facilities and to purchase property and equipment and develop land?

§ 6182. Bonds.

(a) Issuance of general obligation bonds.--As evidence of the indebtedness if authorized under section 6181 (relating to referendum), general obligation bonds of the Commonwealth shall be issued from time to time to fund or retire notes issued under section 6181 to carry out the purposes of this subchapter, or both, for total amounts, in the form, in the denominations and subject to the terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the issuing officials direct, except that the latest stated maturity date shall not exceed 35 years from the date of the debt first issued for each series.

(b) Execution of bonds.--All bonds and notes issued under the authority of section 6181 shall bear facsimile signatures of the issuing officials and a facsimile of the Great Seal of the Commonwealth and shall be countersigned by a duly authorized loan and transfer agent of the Commonwealth.

(c) Direct obligation of Commonwealth.--All bonds and notes issued in accordance with section 6181 shall be direct obligations of the Commonwealth, and the full faith and credit of the Commonwealth are hereby pledged for the payment of the interest thereon as it becomes due and the payment of the principal at maturity. The principal of and interest on the bonds and notes shall be payable in lawful money of the United States.

(d) Exemption from taxation.--All bonds and notes issued under the provisions of this section shall be exempt from

1   taxation for State and local purposes.

2       (e)   Form of bonds.--The bonds may be issued as coupon bonds  
3   or registered as to both principal and interest as the issuing  
4   officials may determine. If interest coupons are attached, they  
5   shall contain the facsimile signature of the State Treasurer.

6       (f)   Bond amortization.--The issuing officials shall provide  
7   for the amortization of the bonds in substantial and regular  
8   amounts over the term of the debt. The first retirement of  
9   principal shall be stated to mature prior to the expiration of a  
10  period of time equal to one-tenth of the time from the date of  
11  the first obligation issued to evidence the debt to the date of  
12  the expiration of the term of the debt. Retirements of principal  
13  shall be regular and substantial if made in annual or semiannual  
14  amounts, whether by stated serial maturities or by mandatory  
15  sinking fund retirements.

16       (g)   Refunding bonds.--The issuing officials are authorized  
17  to provide for the issuance of refunding bonds for the purpose  
18  of refunding any bonds issued under this section and then  
19  outstanding, either by voluntary exchange with the holders of  
20  the outstanding bonds, or to provide funds to redeem and retire  
21  the outstanding bonds with accrued interest, any premium payable  
22  thereon and the costs of issuance and retirement of bonds, at  
23  maturity or at any call date. The issuance of the refunding  
24  bonds, the maturities and other details thereof, the rights of  
25  the holders thereof and the duties of the issuing officials in  
26  respect to the same shall be governed by the provisions of this  
27  section, insofar as they may be applicable. Refunding bonds may  
28  be issued by the issuing officials to refund bonds originally  
29  issued or to refund bonds previously issued for refunding  
30  purposes.

1 (h) Quorum.--Whenever any action is to be taken or decision  
2 made by the Governor, the Auditor General and the State  
3 Treasurer acting as issuing officials and the three officers are  
4 not able unanimously to agree, the action or decision of the  
5 Governor and either the Auditor General or the State Treasurer  
6 shall be binding and final.

7 (i) Public sale.--Whenever bonds are issued, they shall be  
8 offered for sale at not less than 98% of the principal amount  
9 and accrued interest and shall be sold by the issuing officials  
10 to the highest and best bidder or bidders after due public  
11 advertisement on the terms and conditions and upon open  
12 competitive bidding as the issuing officials shall direct. The  
13 manner and character of the advertisement and the time of  
14 advertising shall be prescribed by the issuing officials.

15 (j) Private sale.--Any portion of any bond issue so offered  
16 and not sold or subscribed for may be disposed of by private  
17 sale by the issuing officials in the manner and at the prices,  
18 not less than 98% of the principal amount and accrued interest,  
19 as the issuing officials shall direct. No commission shall be  
20 allowed or paid for the sale of any bonds issued under the  
21 authority of this section.

22 (k) Bond series.--When bonds are issued from time to time,  
23 the bonds of each issue shall constitute a separate series to be  
24 designated by the issuing officials or may be combined for sale  
25 as one series with other general obligation bonds of the  
26 Commonwealth.

27 (l) Temporary bonds.--Until permanent bonds can be prepared,  
28 the issuing officials may in their discretion issue, in lieu of  
29 permanent bonds, temporary bonds in the form and with the  
30 privileges as to registration and exchange for permanent bonds

1 as may be determined by the issuing officials.

2 (m) Disposition and use of proceeds.--The proceeds realized  
3 from the sale of bonds and notes, except funding bonds,  
4 refunding bonds and renewal notes, under the provisions of this  
5 section are specifically dedicated to the purposes of the  
6 referendum to be implemented by this subchapter and shall be  
7 paid into the Pennsylvania Airport Capital Loan Fund created  
8 under section 6184(a) (relating to department funds) in the  
9 State Treasury in amounts as may be specified by the department.  
10 The proceeds shall be paid by the State Treasurer periodically  
11 to the department to expend them at the times and in the amounts  
12 as may be necessary to satisfy the funding needs of the  
13 department. The proceeds of the sale of funding bonds, refunding  
14 bonds and renewal notes shall be paid to the State Treasurer and  
15 applied to the payment of principal, the accrued interest and  
16 premium, if any, and costs of redemption of the bonds and notes  
17 for which the obligations shall have been issued.

18 (n) Investment of funds.--Pending their application to the  
19 purposes authorized, moneys held or deposited by the State  
20 Treasurer may be invested or reinvested as are other funds in  
21 the custody of the State Treasurer in the manner provided by  
22 law. All earnings received from the investment or deposit of  
23 such funds shall be paid into the State Treasury to the credit  
24 of the Pennsylvania Airport Capital Loan Fund created by the  
25 department in section 6184(a) in the amounts as may be specified  
26 by the department under that section.

27 (o) Registration of bonds.--The Auditor General shall  
28 prepare the necessary registry book to be kept in the office of  
29 the authorized loan and transfer agent of the Commonwealth for  
30 the registration of any bonds, at the request of owners thereof,

1 according to the terms and conditions of issue directed by the  
2 issuing officials.

3 (p) Expenses of preparation for issue and sale of bonds and  
4 notes.--There is hereby appropriated to the State Treasurer from  
5 the proceeds of the bonds and notes issued as much money as may  
6 be necessary for all costs and expenses in connection with the  
7 issue of and sale and registration of the bonds and notes in  
8 connection with this subchapter.

9 (q) Expenses of department.--There is hereby appropriated to  
10 the department from the proceeds of the bonds and notes issued  
11 as much money as may be necessary for all costs and expenses in  
12 connection with the administration of this subchapter.

13 (r) Negotiable instrument designation.--Whether or not the  
14 bonds are of a form and character as to be negotiable  
15 instruments under the terms of Title 13 (relating to commercial  
16 code), the bonds are made negotiable instruments within the  
17 meaning of and for the purposes of Title 13, subject only to the  
18 provisions of the bonds for registration.

19 § 6183. Loans for project funding.

20 (a) General rule.--Loans under this subchapter may be made  
21 for the following purposes:

22 (1) For capital improvements and construction or  
23 acquisition of facilities undertaken by public airports.

24 (2) For acquisition of equipment by owners of public  
25 airports.

26 (b) Limits on loans.--Any loan made under this subchapter  
27 shall be subject to the following:

28 (1) Loan funds may be used to finance no more than 85%  
29 of project costs.

30 (2) The original principal amount of a loan and the

total of the principal balances of all loans to one borrower  
outstanding at any time shall not be more than \$10,000,000.

(3) The term of a loan may not be more than 20 years  
calculated from the time of making the loan.

(4) Security for a loan may be required by the  
department.

(c) Administration of loans.--Loans made under this  
subchapter shall be administered by the Bureau of Aviation  
within the department.

§ 6184. Department funds.

(a) Pennsylvania Airport Capital Loan Fund.--The department  
shall create the Pennsylvania Airport Capital Loan Fund in the  
State Treasury for the purpose of depositing:

(1) Proceeds from sale of Commonwealth general  
obligation bonds issued under this subchapter.

(2) Payments from outstanding loans.

(3) Federal and State appropriations made under this  
subchapter.

(b) Other funds.--The department may also create  
nonrevolving funds and accounts as it deems necessary and  
convenient to carry out the purposes of this subchapter.

Section 2. Title 74 is amended by adding a part to read:

#### PART V

#### RAILROADS

#### Chapter

#### 95. Rail Freight Preservation and Improvement

#### CHAPTER 95

#### RAIL FREIGHT PRESERVATION AND IMPROVEMENT

#### Sec.

#### 9501. Definitions.



1 9502. Rail Freight Advisory Committee.  
2 9503. Comprehensive rail freight study.  
3 9504. Program authority.  
4 9505. Contracts.  
5 9506. Cooperation with other governments and private  
6 interests.  
7 9507. Rules and regulations of department.  
8 9508. Grants and loans by transportation organizations or  
9 municipalities.  
10 9509. Rental schedule for occupations of rail property.  
11 9510. Pennsylvania Railroad Authority.  
12 9511. Referendum.  
13 9512. Bonds.  
14 9513. Limits on loans for project funding.  
15 9514. Department funds.  
16 9515. Limitation on decisions, findings and regulations of  
17 secretary.  
18 § 9501. Definitions.

19 The following words and phrases when used in this chapter  
20 shall have the meanings given to them in this section unless the  
21 context clearly indicates otherwise:

22 "Authority." The Pennsylvania Railroad Authority established  
23 under section 9510 (relating to Pennsylvania Railroad  
24 Authority).

25 "Board." The governing body of the Pennsylvania Railroad  
26 Authority.

27 "Capital project." Includes any of the following:

28 (1) Any building, structure, facility or physical public  
29 betterment or improvement.

30 (2) Any land or rights in land.

1           (3) Any furnishings, machinery, apparatus or equipment  
2       for any public betterment or improvement.

3           (4) Any undertaking to construct, repair, renovate,  
4       improve, equip, furnish or acquire any of the foregoing if  
5       the project is designated in a capital budget as a capital  
6       project, has an estimated useful life in excess of five years  
7       and an estimated financial cost in excess of the threshold  
8       amount set forth in Article XVI-B of the act of April 9, 1929  
9       (P.L.343, No.176), known as The Fiscal Code. The term shall  
10      exclude maintenance rehabilitation.

11      "Committee." The Rail Freight Advisory Committee established  
12      under this chapter.

13      "Competitive threshold." The threshold amount established in  
14      section 10 of the act of May 2, 1945 (P.L.382, No.164), known as  
15      the Municipality Authorities Act of 1945.

16      "Department." The Department of Transportation of the  
17      Commonwealth.

18      "Emergency maintenance." Maintenance necessary to return  
19      rail property to the condition in which it existed prior to an  
20      event which makes a line unsafe or impassable. The term shall  
21      include snow removal, washout repair and repair of damage caused  
22      by derailment or external sources.

23      "Intermodal facilities." Facilities where rail freight  
24      carloadings may be transferred from one mode of transportation  
25      to another.

26      "Issuing officials." As defined in section 1602-B of the act  
27      of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

28      "Loan." Except for those funds under section 9504(c)  
29      (relating to program authority), the term refers to the  
30      Department of Transportation loans authorized by this chapter.

1 "Maintenance/rehabilitation." The replacing of ties, rail  
2 plates, turnouts and other track and structural materials and  
3 addition of ballast sufficient functionally to restore, improve  
4 or maintain rail structures or facilities or intermodal  
5 facilities to the level necessary for safe operations or use,  
6 with an estimated useful life in excess of five years, and  
7 excluding materials used to repair or construct a building.

8 "Municipality." Any county, city, borough, incorporated  
9 town, township, home rule municipality, optional plan  
10 municipality, optional form municipality or similar general  
11 purpose unit of government, which may hereafter be established  
12 by law and any local development district.

13 "Optional form municipality." A city which has adopted an  
14 optional form of government under the act of July 15, 1957  
15 (P.L.901, No.399), known as the Optional Third Class City  
16 Charter Law.

17 "Optional plan municipality." A city, borough, incorporated  
18 town or township which has adopted an optional plan of  
19 government under the act of April 13, 1972 (P.L.184, No.62),  
20 known as the Home Rule Charter and Optional Plans Law.

21 "Rail Freight Assistance Program." A program administered by  
22 the Department of Transportation to provide financial assistance  
23 for investment in rail infrastructure to:

24 (1) Preserve essential rail freight service where  
25 economically viable.

26 (2) Stimulate economic growth through generation of new  
27 or expanded rail freight service.

28 "Rail freight transportation facilities." Items necessary  
29 for the provision of rail freight transportation services,  
30 including, but not limited to, freight cars, locomotives, wires,

1 poles and equipment for electrification of rail lines, rails,  
2 tracks, railroad beds, elevated structures, bridges, intermodal  
3 facilities, buildings, structures, parking areas and tunnels.

4 "Rail freight transportation services." Transportation of  
5 property by rail, for compensation, by any and all persons or  
6 corporations holding out, offering or undertaking, directly or  
7 indirectly, such service.

8 "Rail freight transportation systems." Systems necessary to  
9 provide rail freight transportation services, including, but not  
10 limited to, any properties, easements or other rights-of-way,  
11 rail lines and rail corridors.

12 "Railroad company." Any person, firm or corporation  
13 rendering common carrier rail freight transportation service in  
14 this Commonwealth, under authorization from the Pennsylvania  
15 Public Utility Commission or the Interstate Commerce Commission,  
16 where authorization is required by law.

17 "Secretary." The Secretary of Transportation of the  
18 Commonwealth.

19 "State Transportation Commission." The commission under  
20 section 2011 of the act of April 9, 1929 (P.L.177, No.175),  
21 known as The Administrative Code of 1929, or any successor  
22 organization.

23 "Transportation organization." Any municipal authority, mass  
24 transportation, port or other authority, or any combination of  
25 two or more such entities, now existing or hereafter organized  
26 under the laws of this Commonwealth, or under an interstate  
27 compact, empowered to render rail freight transportation service  
28 or assist in rendering rail freight transportation service in  
29 this Commonwealth, even though it may also render rail freight  
30 transportation service in adjacent states.

1 § 9502. Rail Freight Advisory Committee.

2 (a) Establishment.--There is hereby established the Rail  
3 Freight Advisory Committee, which shall consist of 28 members.

4 The members shall be as follows:

5 (1) The Secretary of Transportation, ex officio.

6 (2) The Secretary of Commerce, ex officio.

7 (3) The Chairman of the Pennsylvania Public Utility  
8 Commission, ex officio.

9 (4) The chairman and minority chairman of the  
10 Transportation Committee of the Senate.

11 (5) The chairman and minority chairman of the  
12 Transportation Committee of the House of Representatives.

13 (6) Twenty-one members of the public representing the  
14 areas of concern specified who shall have extensive  
15 experience and knowledge of rail freight transportation  
16 activities throughout this Commonwealth, to be appointed by  
17 the Governor as follows:

18 (i) Three representatives of Class I railroad  
19 companies.

20 (ii) Three representatives of regional  
21 railroad/short line operation.

22 (iii) Six representative rail shippers, each to  
23 represent one of the following areas:

24 (A) Coal.

25 (B) Steel.

26 (C) Lumber.

27 (D) Intermodal.

28 (E) Chemical.

29 (F) Food products/agriculture.

30 (iv) Three representatives of organized labor, each

1 to represent one of the following areas:

2 (A) Steel labor.

3 (B) Coal labor.

4 (C) Railway labor.

5 (v) One representative from the Pennsylvania Chamber  
6 of Commerce.

7 (vi) Two representatives of regional/local economic  
8 development groups.

9 (vii) Two representatives of the Metropolitan  
10 Planning Organization (MPO).

11 (viii) One representative of rail  
12 contractors/suppliers.

13 Each member shall designate a representative to serve in his  
14 stead. A member shall notify the chairman in writing of the  
15 designation.

16 (b) Terms of appointees.--The term of all members of the  
17 committee appointed by the Governor shall be for three years.  
18 Any member of the committee may be reappointed for an additional  
19 term or terms. An individual appointed to fill a vacancy shall  
20 serve only for the unexpired term.

21 (c) Meetings and expenses.--The committee shall meet at  
22 least four times every 12 months, but may hold additional  
23 meetings as are called by the chairman or by petition of at  
24 least seven committee members. A public member, including a  
25 designee, who misses three consecutive meetings without good  
26 cause acceptable to the chairman shall be replaced by the  
27 chairman, who shall have the power to make a temporary  
28 appointment pending approval or replacement by the Governor. The  
29 public members of the committee shall be allowed per diem  
30 expenses to be set by the committee, but not to exceed the

1 amount deductible from taxable income allowed under the Internal  
2 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).  
3 The department shall provide appropriate staff support to enable  
4 the committee to properly carry out its functions.

5 (d) Powers and duties.--The powers and duties of the  
6 committee shall be to advise and comment on a comprehensive rail  
7 freight study, to advise and comment on all phases of the rail  
8 freight transportation program activities being undertaken or  
9 financially assisted by the department and to propose methods,  
10 strategies or technologies for improving rail freight  
11 transportation services systems or facilities within this  
12 Commonwealth. The committee shall annually submit reports of its  
13 general deliberations and conclusions, as well as any specific  
14 issue report completed at the committee's discretion, to the  
15 Governor, members of the General Assembly and the State  
16 Transportation Commission.

17 (e) Officers.--The members of the committee shall annually  
18 elect a chairperson, a vice chairperson and a secretary from  
19 among the public members appointed to the committee.

20 § 9503. Comprehensive rail freight study.

21 (a) Initiation of study.--The department shall undertake,  
22 either through its own staff or through the use of a consultant  
23 or consultants, or both, a comprehensive study of rail freight  
24 transportation services, systems and facilities within this  
25 Commonwealth and recommendations for their preservation and  
26 improvement. This study shall:

27 (1) Include an assessment of this Commonwealth's rail  
28 freight transportation system from an intermodal, multimodal  
29 and economic development perspective.

30 (2) Comply with Federal regulations for the requirements

1 of a State rail plan.

2 (b) Study update.--The comprehensive rail freight study  
3 shall be performed every five years or at intervals as deemed  
4 necessary by the department or committee.

5 (c) Utilization of study.--The department shall consider the  
6 conclusions of the comprehensive rail freight study in the  
7 implementation of its programs designed to preserve and improve  
8 the rail freight transportation services, systems and facilities  
9 within this Commonwealth, including the development of new  
10 initiatives, where required.

11 (d) Appropriation.--The General Assembly shall annually  
12 appropriate funds to the department for the exclusive purpose of  
13 carrying out the comprehensive rail freight study or updating a  
14 previous rail freight study, including department administrative  
15 expenses.

16 § 9504. Program authority.

17 (a) Authority.--The department is hereby authorized, within  
18 the limitations provided in this chapter, to:

19 (1) Provide operating subsidy grants and loans to  
20 railroad companies, transportation organizations or  
21 municipalities to defray or assist in defraying the net  
22 deficit incurred by these entities in providing essential  
23 rail freight transportation services within this  
24 Commonwealth.

25 (2) Provide grants and loans to railroad companies,  
26 transportation organizations or municipalities to defray or  
27 assist in defraying the cost of maintenance/rehabilitation  
28 projects performed on rail lines within this Commonwealth.

29 (3) Undertake capital projects and provide capital  
30 project grants and loans to railroad companies,



1 transportation organizations or municipalities, including  
2 acquisition of rail lines. The department shall not directly  
3 operate or provide rail freight transportation services on  
4 its own rail lines or on lines owned by others, nor shall a  
5 capital project be undertaken in order to enable the  
6 department to directly provide rail freight transportation  
7 services. Projects may include, but are not limited to,  
8 industrial development at industrial or business parks  
9 adjacent to rail lines.

10 (4) Acquire by purchase, lease, eminent domain  
11 proceedings, gift or otherwise all and any property, in such  
12 estate as determined by the secretary, for promoting the  
13 purposes of this chapter, including the property of a public  
14 utility. All municipalities and corporations are hereby  
15 authorized to donate property to the department. Eminent  
16 domain proceedings shall be in accordance with the act of  
17 June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent  
18 Domain Code, and the department is empowered to join with any  
19 municipality or transportation organization in obtaining any  
20 property through the eminent domain proceedings.

21 (5) Undertake research, studies, analysis and planning  
22 and make grants and loans to railroad companies,  
23 transportation organizations and municipalities for research,  
24 studies, analysis and planning relating to any phase of rail  
25 freight transportation services, systems and facilities,  
26 including the management, operation, capital requirements and  
27 economic feasibility thereof, and any preparation of  
28 engineering and architectural surveys, plans and  
29 specifications and other similar activities preliminary to  
30 and in preparation for construction, acquisition or improved

1 operation of rail transportation services, systems and  
2 facilities within this Commonwealth.

3 (6) Undertake demonstration projects and make grants and  
4 loans to railroad companies, transportation organizations and  
5 municipalities for demonstration projects, including the  
6 development, testing and demonstration of new facilities,  
7 equipment, techniques and methods of providing rail  
8 transportation services, systems and facilities within this  
9 Commonwealth.

10 (7) Undertake marketing activities and make grants and  
11 loans to railroad companies, transportation organizations and  
12 municipalities for marketing activities designed to foster  
13 the fullest and most efficient utilization of rail freight  
14 transportation services, systems and facilities within this  
15 Commonwealth. Marketing activities may be undertaken by  
16 contract with the department or by subcontract with a grantee  
17 or loan recipient of the department, upon approval of the  
18 subcontract by the secretary.

19 (8) Undertake audits of any project being financially  
20 assisted by the department. The department may hire outside  
21 auditors to perform audits or may direct its grantees or loan  
22 recipients to engage auditors and include the expense thereof  
23 as an eligible program cost.

24 (9) Provide for strategic management of this  
25 Commonwealth's rail resources and programs of assistance  
26 designed to preserve and enhance rail infrastructure and  
27 services.

28 (10) Review and approve applications for financial  
29 assistance from the Pennsylvania Railway Capital Loan Fund as  
30 to conformance with the department's strategic management

1 plan, contribution toward economic development objectives and  
2 enhanced customer service.

3 (b) Guidelines for grants and loans.--The following shall  
4 govern all grants and loans made under the authority of  
5 subsection (a):

6 (1) A responsible level of local financial  
7 participation, to be determined by the department, shall be  
8 required for each category of project authorized by this  
9 section.

10 (2) A grant or loan shall be made only upon application  
11 filed by an applicant and reviewed and approved by the  
12 department. No grant or loan shall exceed the amount  
13 requested by an applicant. An amended grant or loan request  
14 need not be filed by an applicant where a proposed contract  
15 amendment does not exceed the amount previously requested.

16 (3) A grant or loan, with department approval, may be  
17 made with reference to any appropriate project regardless of  
18 when it was first commenced or considered and regardless of  
19 whether the costs with respect thereto shall have been  
20 incurred prior to the time the project is undertaken or the  
21 project grant or loan is applied for or made. In the case of  
22 a project involving maintenance/rehabilitation, grants and  
23 loans shall be made by the department only after  
24 documentation to the department's satisfaction of the  
25 condition of the rail facilities involved before and after  
26 the maintenance/rehabilitation. Where the department  
27 contracts for a grant or loan based upon estimated costs,  
28 payments may be made thereunder prior to the time costs are  
29 actually incurred. However, the department shall adjust the  
30 payments under any agreement before closing out the contract

involved, based upon the most recent available actual data.

(4) Any grant made for purposes of maintenance/rehabilitation projects or capital projects shall continue for two fiscal years or three calendar years and shall not lapse at the end of the fiscal year in which that grant was awarded.

(5) No agreement shall impair, suspend, contract, enlarge or extend or affect in any manner the powers of the Pennsylvania Public Utility Commission, the Interstate Commerce Commission or any other regulatory agency having jurisdiction over rail freight transportation services, systems and facilities.

(6) The use of consultants by a grantee for preparation of design drawings, specifications and bid packages, solicitation of bids or proposals, contract management and project inspection shall be eligible expenses chargeable to the cost of a project. However, internal administrative costs of a grantee are not eligible for grant reimbursement.

(7) Any grant or loan for acquisition of real property under this chapter shall be based upon an appraisal as approved by the department.

(c) Federal funds.--The department is hereby authorized to make loans of Federal funds to railroad companies, transportation organizations or municipalities, in accordance with the requirements of any Federal law establishing a loan program, for the purchase of real property or easements and for the rehabilitation and improvement of rail freight transportation systems and facilities.

(d) Loans.--Subject to any agreements with the holders of bonds, the department shall have the power to set terms

1 applicable to loans in any manner it deems appropriate, subject  
2 to the provisions of this subsection. The department may  
3 consider factors it deems relevant, including current market  
4 interest rates, the financial and economic distress of the area  
5 which the project serves and the necessity to maintain the  
6 department funds in a financially sound manner. Loans may be  
7 made based on the ability to repay the loan from future revenue  
8 to be derived from the project, by a mortgage or other property  
9 lien or on any other fiscal matters which the department deems  
10 appropriate. The department shall have the power to defer  
11 principal on loans for up to seven years. In the event of a  
12 default on the repayment of a loan, the department may apply to  
13 the court of common pleas of the county where the project is  
14 located for the appointment of a receiver to assume operation  
15 and supervision of the facility under the supervision of the  
16 court. The rate of interest to be paid on any loan made under  
17 this chapter shall be no more than a rate fixed annually by the  
18 Office of the Budget based upon then-current economic  
19 indicators.

20 § 9505. Contracts.

21 (a) Contractual authority.--

22 (1) The department shall have the power and authority to  
23 enter into contracts and to make joint contracts of purchase  
24 with any railroad company, transportation organization or  
25 municipality in any manner complying with the law applicable  
26 to the entity. The department shall have power and authority  
27 to make contracts for the improvement of any rights-of-way,  
28 roadbeds or rolling stock, electrification systems, other  
29 transportation systems, or any parts thereof, constituting a  
30 project without advertisement for competitive bids, where the

1 work is to be done at cost by the personnel and with the  
2 facilities of the railroad company, local transportation  
3 organization or municipality on whose system the property is  
4 to be used.

5 (2) Any other provision of law to the contrary  
6 notwithstanding, the department may sell, transfer, lease or  
7 grant any license to, easement over or any other interest in  
8 all or any part of the rail properties and other property  
9 acquired under the provisions of this chapter or any other  
10 rail-related act to any responsible person, firm,  
11 corporation, municipality or instrumentality thereof,  
12 municipal authority, transportation authority, the Federal  
13 Government or any branch or agency thereof for continued  
14 operation or other use compatible with the operation of a  
15 railroad or any public purpose, when approval for the  
16 continued operation or other public purpose is granted by the  
17 Interstate Commerce Commission, when approval is required.  
18 Competitive procurement may be used when deemed appropriate  
19 in the discretion of the department. For continued rail  
20 operations or other public purpose, competitive procurement  
21 shall be used when unsatisfactory performance by the existing  
22 rail operator exists, other viable parties propose to  
23 purchase the State-owned rail line or lines or other criteria  
24 exists as outlined in the department's disposition policy  
25 document. If during the first five years after the sale,  
26 transfer, lease or grant of a license or easement the  
27 property or property right is used for any purpose other than  
28 that which is compatible with the operation of a railroad or  
29 any public purpose, the property or property right shall  
30 revert to the Commonwealth.

1           (3) In the event the department determines that there is  
2 no need for continued operation of a railroad on any rail  
3 properties or other properties acquired under the provisions  
4 of this chapter or any other rail-related act and that the  
5 properties are not needed for any other public purpose, the  
6 department may sell, under a system of public competitive  
7 bidding, transfer, lease or grant any license to, easement  
8 over or any other interest in all or any part of the  
9 properties to any responsible person, firm, corporation,  
10 municipality or instrumentality thereof, municipal authority,  
11 transportation authority or to the Federal Government or any  
12 branch or agency thereof for any worthwhile purpose, as  
13 determined by the department. In the event properties which  
14 are located outside the normal right-of-way limits of the  
15 adjacent railroad are not required for continued provision of  
16 rail service and, due to a landlocked state or other factors,  
17 are inaccessible to the general public, the department may,  
18 in its sole discretion, in consultation with the Federal  
19 Railroad Administration where required, offer to sell such  
20 property to the adjoining landowner at its fair market value  
21 as determined by a professional appraisal. If the adjoining  
22 landowner agrees to pay the fair market value price as  
23 determined by such appraisal, public competitive bidding  
24 shall not be required.

25           (4) In the event the department, through the exchange of  
26 property acquired under this chapter, can foster or enhance  
27 economic development, the creation of housing, safety,  
28 environmental concerns or other activities consistent with  
29 the betterment of this Commonwealth, the department shall  
30 have, with the concurrence of the Federal Railroad

1 Administration where required, the power and authority to  
2 exchange property acquired under this chapter with any  
3 responsible person, firm, corporation, municipality or  
4 instrumentality thereof, municipal authority, transportation  
5 authority or the Federal Government or any branch or agency  
6 thereof in its sole discretion. Exchanges of property shall  
7 be conducted in a manner so as not to interfere with the  
8 continued provision of rail service. Any property acquired  
9 under any exchange conducted under this paragraph, combined  
10 with any improvements located or constructed thereon, shall  
11 have an appraisal value at least equivalent to the value of  
12 the property conveyed in exchange by the department.

13 (5) At least 60 days prior to the sale of any property  
14 as authorized by paragraph (2) or (3), the department shall  
15 provide written notice thereof to the chairman of the  
16 Transportation Committee of the Senate and the chairman of  
17 the Transportation Committee of the House of Representatives.

18 (b) Competitive bids.--Except in the purchase of unique  
19 articles or articles which for any other reason cannot be  
20 obtained in the open market and except as otherwise provided,  
21 competitive bids shall be secured before any purchase or sale,  
22 by contract or otherwise, is made or before any contract is  
23 awarded for construction, alterations, supplies, equipment,  
24 repairs or maintenance or for rendering any services to the  
25 department other than professional services. The purchase shall  
26 be made from or the contract shall be awarded to the lowest  
27 responsible bidder or a sale to the highest responsible bidder.  
28 No purchase of any unique article or other articles which cannot  
29 be obtained in the open market shall be made without express  
30 approval of the secretary where the amount involved is in excess



1 of the competitive threshold amount.

2 (c) Advertisement.--Except as otherwise provided in this  
3 chapter, all purchases and sales in excess of the competitive  
4 threshold amount shall be awarded after advertising in a  
5 newspaper of general circulation in the area where the property  
6 is to be used not less than two weeks prior to the bid opening.  
7 Bids shall be publicly opened and read aloud at a date, time and  
8 place designated in the invitation to bid. In all cases of  
9 purchases or sales in excess of the competitive threshold amount  
10 authorized under this section to be made without competitive  
11 bidding, except purchases from or sales to a transportation  
12 organization or contracts with a transportation company under  
13 subsection (a), invitations to bid shall be sent not less than  
14 one week prior to the bid opening to at least three potential  
15 bidders who are qualified technically and financially to submit  
16 bids, or in lieu thereof a memorandum shall be kept on file  
17 showing that less than three potential bidders so qualified  
18 exist in the market area within which it is practicable to  
19 obtain bids.

20 (d) Negotiation of certain contracts.--Purchases or sales  
21 under the competitive threshold amount may be negotiated with or  
22 without competitive bidding under sound procurement procedures  
23 as promulgated and established by the secretary.

24 (e) Waiver of competitive bid requirements.--Competitive  
25 bidding requirements may be waived if it is determined by the  
26 secretary that an emergency directly and immediately affecting  
27 customer service, public health, safety or welfare requires  
28 immediate delivery of supplies, materials or equipment. A record  
29 of circumstances explaining the emergency shall be submitted to  
30 the secretary and kept on file.

1 (f) Restriction.--Requirements shall not be split into parts  
2 for the purpose of avoiding the provisions of this section.

3 (g) Rejection of bids.--The department shall have the right  
4 to reject any or all bids or parts of any or all bids, whenever,  
5 in the opinion of the secretary, the rejection is necessary for  
6 the protection of the interest of the Commonwealth. In every  
7 case, a record shall be made setting forth the reason for the  
8 rejection, which record shall thereafter be kept on file.

9 (h) Rules and regulations.--The secretary may adopt rules  
10 and regulations to effectuate the provisions of this section.

11 (i) Assignments.--The secretary shall have the power to  
12 accept the assignment from any railroad company, transportation  
13 organization or municipality of all or any interest in any  
14 lawfully made contract for the procurement and purchase of any  
15 asset deemed necessary or desirable by the secretary in  
16 connection with any project.

17 § 9506. Cooperation with other governments and private  
18 interests.

19 (a) Cooperation.--The department is directed to administer  
20 all projects under this chapter with flexibility to promote and  
21 encourage full cooperation and financial participation of  
22 Federal, State and local governments, agencies and  
23 instrumentalities, as well as private interests, so as to result  
24 in as effective and economical a program as possible. The  
25 department shall respond to the requirements of any Federal rail  
26 freight transportation legislation now existing or enacted into  
27 law in the future, to the extent permitted under the laws of  
28 this Commonwealth, in order to enhance rail freight  
29 transportation services, systems and facilities within this  
30 Commonwealth.

1 (b) Agreements.--The department is hereby authorized to  
2 enter into agreements providing for mutual cooperation among it  
3 and any Federal agency and any transportation organization, or  
4 transportation company, or one or more of them, in any or all  
5 projects, including joint applications for Federal grants.

6 (c) Purpose of chapter.--It is the purpose and intent of  
7 this chapter to authorize the department to do any and all other  
8 things necessary or desirable to secure the financial aid or  
9 cooperation of any Federal agency in any of the department's  
10 projects and to do and perform all things which may be required  
11 by any Federal statute or by the lawful requirements of any  
12 Federal agency authorized to administer any program of Federal  
13 aid to transportation.

14 § 9507. Rules and regulations of department.

15 In order to effectuate and enforce the provisions of this  
16 chapter, the department is authorized to promulgate necessary  
17 rules and regulations and prescribe conditions and procedures in  
18 order to assure compliance in carrying out the purposes for  
19 which grants and loans may be made under this chapter. The rules  
20 and regulations shall also provide for the observance of the  
21 relevant safety standards of any regulatory body having  
22 jurisdiction to promulgate safety standards, but the department  
23 shall not be authorized to do anything or suffer or permit any  
24 action which will violate any agreement with a transportation  
25 organization, transportation company or any Federal agency or  
26 impair, suspend, contract, enlarge or extend or affect in any  
27 manner the powers of the Pennsylvania Public Utility Commission  
28 or the Interstate Commerce Commission, which by law are  
29 applicable to the railroad company, transportation organization  
30 or municipality involved.

1 § 9508. Grants and loans by transportation organizations or  
2 municipalities.

3 Any transportation organization or municipality shall be and  
4 is hereby authorized to make annual grants and loans from  
5 current revenues in order to participate in the rail freight  
6 transportation projects and to enter into long-term agreements  
7 providing for the payment of the same.

8 § 9509. Rental schedule for occupations of rail property.

9 The department shall publish a uniform schedule of rentals  
10 and fees for occupations of property acquired by the department  
11 under this chapter. The schedule shall cover all licenses,  
12 easements, leases or other interests in such property. The fees  
13 and rentals shall be revised and updated from time to time at  
14 the discretion of the department.

15 § 9510. Pennsylvania Railroad Authority.

16 (a) Authority established.--A body corporate and politic, to  
17 be known as the Pennsylvania Railroad Authority, is hereby  
18 established as a public authority and instrumentality of the  
19 Commonwealth.

20 (b) Board.--

21 (1) The powers of the authority shall be exercised by  
22 its board, a governing body having full authority to manage  
23 the properties and business of the authority and to  
24 prescribe, amend and repeal bylaws, rules and regulations  
25 governing the manner in which the business of the authority  
26 may be conducted and the powers granted to it may be  
27 exercised. All bylaws, rules and regulations, and amendments  
28 thereto, shall be filed with the secretary of the authority.

29 (2) The board shall be composed of seven members who  
30 shall be residents of this Commonwealth, who shall not be

1 elected public officials and who shall serve at the pleasure  
2 of the respective appointing authority as follows:

3 (i) The Secretary of Transportation or a designee.

4 (ii) The Secretary of Commerce or a designee.

5 (iii) One public member appointed by the Governor  
6 for a term of four years.

7 (iv) One member appointed by the President pro  
8 tempore of the Senate for a term concurrent with the term  
9 of the appointing authority.

10 (v) One member appointed by the Minority Leader of  
11 the Senate for a term concurrent with the term of the  
12 appointing authority.

13 (vi) One member appointed by the Speaker of the  
14 House of Representatives for a term concurrent with the  
15 term of the appointing authority.

16 (vii) One member appointed by the Minority Leader of  
17 the House of Representatives for a term concurrent with  
18 the term of the appointing authority.

19 (3) The term of a member shall begin on the date of  
20 appointment. A member may continue to serve as a member until  
21 a successor has been appointed and may serve more than one  
22 term.

23 (4) Within 30 days of the occurrence of a vacancy, the  
24 original appointing authority designated in paragraph (2)  
25 shall appoint a successor member for the remainder of the  
26 unexpired term of the member for which the vacancy exists. A  
27 vacancy shall occur upon the death, resignation,  
28 disqualification or removal of a member.

29 (5) The Governor shall set a date, time and place for  
30 the initial organizational meeting of the board. Prior to the

1 organizational meeting, the Governor shall select one member  
2 as a chairman of the board for a term of two years. A  
3 majority of the board shall constitute a quorum for the  
4 conduct of business at the organizational meeting of the  
5 board. All action shall be taken at the organizational  
6 meeting by a majority of the board. The members shall elect  
7 from among themselves a vice chairman, secretary, treasurer  
8 and other officers as they may determine.

9 (6) The board shall reorganize annually at its first  
10 regular meeting occurring after the expiration of 365 days  
11 immediately following its initial organizational meeting or  
12 prior reorganization, as the case may be, in the manner  
13 provided for its initial organization. Prior to the  
14 reorganizational meeting, the Governor shall select one  
15 member as chairman of the board for a term of two years  
16 whenever the office of chairman is vacant by reason of  
17 expiration of the term of the office of chairman or  
18 otherwise.

19 (7) The board shall meet at least bimonthly. A majority  
20 of the board shall constitute a quorum for the purpose of  
21 conducting the business of the board and for all other  
22 purposes. All actions of the board shall be taken by a  
23 majority of the board.

24 (8) A member shall not receive compensation or  
25 remuneration, but shall be entitled to actual reimbursement  
26 or the amount deductible from taxable income allowed under  
27 the Internal Revenue Code of 1986 (Public Law 99-514, 26  
28 U.S.C. § 1 et seq.) for all reasonable and necessary actual  
29 expenses.

30 (9) A member shall not be liable personally on any

1 obligation of the authority, and the rights of creditors  
2 shall be solely against the authority.

3 (10) The board shall fix and determine the number of  
4 officers, agents and employees of the authority and their  
5 respective compensation and duties. The board shall, upon the  
6 approval of a majority, delegate to the executive director  
7 the powers of the board as the board shall deem necessary to  
8 carry out the purposes of the authority, subject in every  
9 case to the supervision and control of the board.

10 (11) A member shall be removed from the board for  
11 neglect or refusal to attend three successive regular  
12 meetings of the board, unless detained by a sickness or the  
13 death of a family member.

14 (c) General powers.--

15 (1) The authority is established for the purpose of  
16 acquiring, operating, maintaining and leasing locomotives and  
17 rolling stock to be used on new or existing:

18 (i) Intercity railroad passenger service providers,  
19 including, but not limited to, an intercity railroad  
20 passenger service operated by or on license to the  
21 National Railroad Passenger Corporation (AMTRAK) or its  
22 successor.

23 (ii) Rail freight systems in this Commonwealth.

24 (2) The authority may fund these acquisitions of  
25 locomotives and rolling stock through any of the following:

26 (i) Loans under this chapter.

27 (ii) Except for rail freight systems under paragraph  
28 (1)(ii), department-initiated program grants under  
29 Chapter 13 (relating to public transportation  
30 assistance).

1           (iii) Appropriations by the General Assembly which  
2           shall be nonlapsing.

3       (d) Specific powers.--The authority is granted and shall  
4 have and may exercise all powers necessary or convenient for  
5 performing or carrying out the purposes under subsection (c),  
6 including the following rights and powers:

7           (1) To have perpetual existence and continuing  
8 succession.

9           (2) To sue and be sued, implead and be impleaded,  
10 complain and defend in all courts, to petition the Interstate  
11 Commerce Commission or any other regulatory body, either  
12 Federal or State, and to join in any proceeding before any  
13 court or the Interstate Commerce Commission or other  
14 regulatory body in any matter affecting the operation of the  
15 authority.

16          (3) To adopt and use and alter at will a corporate seal.

17          (4) To establish a principal office and any other office  
18 or offices as may be necessary for the purpose of performing  
19 its duties and functions.

20          (5) To acquire real property.

21          (6) To acquire, by gift or otherwise, purchase, hold,  
22 receive, lease, sublease and use any franchise, license,  
23 personal property, tangible or intangible, or any interest  
24 therein, necessary or desirable for carrying out the purposes  
25 of the authority.

26          (7) To sell, transfer, convey and dispose of any  
27 personal property, tangible or intangible, or any interest  
28 therein, at any time acquired by the authority.

29          (8) To make and, from time to time, amend and repeal  
30 bylaws, rules, regulations and resolutions for the management



1 and regulation of the affairs of the authority and the  
2 performance of the functions and duties of the authority.

3 (9) To appoint officers, agents, employees and servants,  
4 and to prescribe their duties and fix their compensation,  
5 provided that the appointment of a full-time executive  
6 director shall be made by a majority vote of the board and  
7 that staff support for the authority shall be furnished by  
8 the department.

9 (10) To make and execute contracts and other instruments  
10 necessary or convenient for the conduct of its business and  
11 the exercise of the powers of the authority.

12 (11) To apply for and to accept appropriations, grants,  
13 loans and other assistance from, and to enter into contracts,  
14 agreements, leases, subleases, licenses or other transactions  
15 with, the Federal Government, the Commonwealth, political  
16 subdivisions, persons, associations, partnerships or  
17 corporations for any of the purposes of the authority,  
18 provided that these contracts or agreements do not conflict  
19 with any of the provisions of any trust agreement.

20 (12) To pledge, hypothecate or otherwise encumber all or  
21 any of the revenues or receipts of the authority as security  
22 for all or any of the obligations of the authority.

23 (13) To provide for self-insurance or to procure from  
24 insurers insurance containing coverages which the authority  
25 may determine to be necessary or desirable for its purposes,  
26 including, without limitation, insurance covering the  
27 property or operation of the authority against any risks or  
28 hazards.

29 (14) (i) To enter into contracts of group insurance for  
30 the benefit of its employees.

1           (ii) To enroll its employees in the Commonwealth  
2           retirement system established under 71 Pa.C.S. Pt. XXV  
3           (relating to retirement for State employees and  
4           officers).

5           (15) To establish an executive committee and other  
6           standing and special committees that are deemed necessary in  
7           the furtherance of authority business.

8           (16) To fix, alter, charge and collect lease rental  
9           fees.

10          (17) To do all acts and things necessary for the  
11          promotion of its business and the general welfare of the  
12          authority to carry out the powers granted to it by this  
13          chapter or any other statute.

14          (e) Prohibition.--Notwithstanding any general or specific  
15          powers granted to the authority or the board by this section,  
16          whether express or implied:

17           (1) The authority shall have no power, at any time or in  
18           any manner, to pledge the credit or taxing power of the  
19           Commonwealth or any political subdivision.

20           (2) The authority shall have no power, at any time or in  
21           any manner, to issue negotiable notes, bonds, refunding bonds  
22           and other evidences of indebtedness or obligations of the  
23           authority.

24           (3) No obligations of the authority shall be deemed to  
25           be obligations of the Commonwealth or of any of its political  
26           subdivisions.

27           (4) The Commonwealth or any political subdivision  
28           thereof shall not be liable for the payment of principal or  
29           interest on obligations of the authority, excluding payments  
30           for lease agreements regarding the property of the authority.

1           (5) The authority shall be deemed an independent agency  
2     for the purposes of and within the meaning of the act of  
3     October 15, 1980 (P.L.950, No.164), known as the Commonwealth  
4     Attorneys Act, and shall not exercise any power or authority  
5     under this chapter which is inconsistent therewith.

6           (6) A comptroller shall be appointed in accordance with  
7     the provisions of section 214 of the act of April 9, 1929  
8     (P.L.177, No.175), known as The Administrative Code of 1929.

9     (f) Rights and remedies of obligees.--Subject to any  
10  contractual provisions or restrictions, an obligee shall have  
11  the following rights, in addition to any rights and remedies  
12  lawfully granted to such obligee:

13           (1) The right, by mandamus, suit, action or proceeding  
14     at law or in equity, to compel the authority and the members,  
15     officers, agents or employees thereof, to perform each and  
16     every term, provision and covenant contained in any contract  
17     of the authority with or for the benefit of the obligee and  
18     to require the carrying out of any or all such covenants and  
19     agreements of the authority and the fulfillment of all duties  
20     imposed upon the authority by this chapter.

21           (2) The right, by proceeding in equity, to obtain an  
22     injunction against any acts or things which may be unlawful  
23     or in violation of the rights of the obligee of the  
24     authority.

25     (g) Audits and financial reports.--The books, accounts,  
26  records, operations and assets and liabilities of the authority  
27  shall be audited annually in accordance with generally accepted  
28  auditing standards and principles by an independent certified  
29  public accountant. As soon after the end of each fiscal year and  
30  the completion of the audit as may be expedient, the authority

1 shall file an annual report and financial statement, which shall  
2 include a certified copy of the audit report of the independent  
3 certified public accountant, with the department. A condensed  
4 and concise version of the annual financial report shall be  
5 published once in the Pennsylvania Bulletin. The Secretary of  
6 the Budget, the Auditor General, the majority and minority  
7 chairmen of the Appropriations Committee of the Senate and the  
8 majority and minority chairmen of the Appropriations Committee  
9 of the House of Representatives shall have the right to examine,  
10 from time to time and at any time, the books, accounts and  
11 records of the authority, including, but not limited to, its  
12 receipts, disbursements, contracts, leases, sinking funds,  
13 investments and other matters relating to the finances,  
14 operations and affairs of the authority.

15 (h) Supplies and materials.--All supplies and materials  
16 costing the competitive threshold amount or more which are to be  
17 acquired directly by the authority shall not be purchased unless  
18 the authority has published notice, at least ten days before the  
19 award of any contract or the making of any purchase, in the  
20 Pennsylvania Bulletin. The authority shall accept the lowest bid  
21 or bids from a responsible bidder, provided that the kind and  
22 quality of materials are equal. The authority shall have the  
23 right to reject any or all bids or select a single item from any  
24 bid. The provisions of this subsection shall not apply to the  
25 purchase of any supplies and materials which are unique and  
26 which cannot be obtained in the open market.

27 (i) Use and operation of facilities.--The acquisition,  
28 operation, maintenance and lease of locomotives or rolling stock  
29 under subsection (c) shall be subject to the rules and  
30 regulations adopted from time to time by the board, provided

1 that the authority shall not be authorized to do anything which  
2 will violate any contracts, leases or other agreements awarded,  
3 made or entered into by the authority.

4 (j) Exemption from taxes and assessments.--The effectuation  
5 of the authorized purposes of the authority established under  
6 this section shall and will be in all respects for the benefit  
7 of the people of this Commonwealth, for the increase of their  
8 commerce and prosperity and for the improvement of their health  
9 and living conditions and, since the authority will be  
10 performing essential government functions in effectuating these  
11 purposes, the authority shall not be required to pay any taxes  
12 or assessments upon any property acquired or used by it for  
13 these purposes, or fees or other charges imposed or authorized  
14 to be imposed by virtue of any law of this Commonwealth, except  
15 vehicle registration fees, liquid fuels taxes, fuel use taxes,  
16 gross receipts taxes imposed as an excise on the use of public  
17 highways and tolls imposed by the Pennsylvania Turnpike  
18 Commission. The authority shall have the power to make payments  
19 in lieu of taxes or special assessments.

20 (k) Interest of officers and employees.--

21 (1) No person convicted of an infamous crime shall be  
22 employed as a management-level employee by the authority.

23 (2) The provisions of the act of July 19, 1957  
24 (P.L.1017, No.451), known as the State Adverse Interest Act,  
25 and the act of October 4, 1978 (P.L.883, No.170), referred to  
26 as the Public Official and Employee Ethics Law, are hereby  
27 made specifically applicable to members and officers and  
28 employees of the authority. For the purposes of application  
29 of these acts, employees of the authority shall be regarded  
30 as public employees of the Commonwealth, and members and

1 officers of the authority shall be regarded as public  
2 officials of the Commonwealth, whether or not they receive  
3 compensation.

4 (3) The employment of any person who violates the  
5 provisions of this subsection shall be terminated immediately  
6 by the appropriate person having the power to terminate  
7 employment. A person whose employment has been terminated  
8 under this provision shall be liable to the authority to  
9 reimburse the authority for all compensation received from  
10 the authority while employed in violation of this subsection.

11 (4) As used in this subsection, the following words and  
12 phrases shall have the meanings given to them in this  
13 paragraph:

14 "Infamous crime." Any violation and conviction for an  
15 offense which would disqualify an individual from holding  
16 public office pursuant to section 6 of Article II of the  
17 Constitution of Pennsylvania, or any conviction for a  
18 violation of this section or 18 Pa.C.S. § 4113 (relating to  
19 misapplication of entrusted property and property of  
20 government or financial institutions) or Ch. 47 (relating to  
21 bribery and corrupt influence), 49 (relating to falsification  
22 and intimidation), 51 (relating to obstructing governmental  
23 operations) or 53 (relating to abuse of office) or any other  
24 violation of the laws of this Commonwealth for which an  
25 individual has been convicted within the preceding ten years  
26 and which is classified as a felony, and any similar  
27 violations of the laws of the Federal Government or any other  
28 state.

29 "Management-level employee." The chairman of the  
30 authority, members, legal counsel employed by the authority,

1 the executive director of the authority and any authority  
2 employee with discretionary powers which may affect the  
3 outcome of a decision of the authority in relation to a  
4 private corporation or business or any employee who by virtue  
5 of job function could influence the outcome of such a  
6 decision.

7 "Person." An individual, union, committee, club,  
8 corporation, partnership, sole proprietorship, firm,  
9 enterprise, franchise, association, organization, self-  
10 employed individual, holding company, joint-stock company,  
11 receivership, trust or any legal entity organized for profit  
12 or as a not-for-profit corporation or organization, or other  
13 organization or group of persons.

14 (l) Nondiscrimination.--The authority shall comply in all  
15 regards with the nondiscrimination and contract compliance plans  
16 used by the Department of General Services to assure that all  
17 persons are accorded equality of opportunity in employment and  
18 contracting by the authority and its contractors,  
19 subcontractors, assignees, lessees, agents, vendors and  
20 suppliers.

21 (m) Public meetings and records.--The authority shall be  
22 subject to the act of June 21, 1957 (P.L.390, No.212), referred  
23 to as the Right-to-Know Law, and the act of July 3, 1986  
24 (P.L.388, No.84), known as the Sunshine Act, inasmuch as they  
25 relate to the inspection and copying of public records.

26 (n) Sovereign immunity.--It is hereby declared to be the  
27 intent of the General Assembly that the authority established by  
28 this section and its members, officers, officials and employees  
29 shall enjoy sovereign and official immunity, as provided in 1  
30 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed;

1 specific waiver), and shall remain immune from suit except as  
2 provided by and subject to the provisions of 42 Pa.C.S. Ch. 85  
3 Subchs. A (relating to general provisions) and B (relating to  
4 actions against Commonwealth parties). Notwithstanding the  
5 provisions of 42 Pa.C.S. § 8525 (relating to legal assistance),  
6 the authority, through its legal counsel, shall defend actions  
7 brought against the authority or its members, officers,  
8 officials and employees when acting within the scope of their  
9 official duties.

10 § 9511. Referendum.

11 (a) General rule.--Pursuant to the provisions of section  
12 7(a)(3) of Article VIII of the Constitution of Pennsylvania, the  
13 question of incurring indebtedness of \$50,000,000 for loans for  
14 the maintenance, acquisition, equipping, furnishing,  
15 constructing, reconstructing, rehabilitating and improving rail  
16 transportation systems and other industrial development  
17 facilities, subject to implementation through this chapter,  
18 shall be submitted to the electors at the next primary election  
19 following the effective date of this chapter.

20 (b) Certification.--The Secretary of the Commonwealth shall  
21 forthwith certify the question to the county boards of  
22 elections.

23 (c) Form of question.--The question shall be in  
24 substantially the following form:

25 Do you favor the incurring of indebtedness by the  
26 Commonwealth of \$50,000,000 for use as loans to maintain,  
27 acquire, equip, furnish, construct, reconstruct,  
28 rehabilitate and improve railroad transportation systems  
29 and facilities?

30 § 9512. Bonds.



1       (a) Issuance of general obligation bonds.--As evidence of  
2 the indebtedness if authorized under section 9511 (relating to  
3 referendum), general obligation bonds of the Commonwealth shall  
4 be issued from time to time to fund or retire notes issued under  
5 section 9511 to carry out the purposes of this chapter, or both,  
6 for total amounts, in the form, in the denominations and subject  
7 to the terms and conditions of issue, redemption and maturity,  
8 rate of interest and time of payment of interest as the issuing  
9 officials direct, except that the latest stated maturity date  
10 shall not exceed 35 years from the date of the debt first issued  
11 for each series.

12       (b) Execution of bonds.--All bonds and notes issued under  
13 the authority of section 9511 shall bear facsimile signatures of  
14 the issuing officials and a facsimile of the Great Seal of the  
15 Commonwealth and shall be countersigned by a duly authorized  
16 loan and transfer agent of the Commonwealth.

17       (c) Direct obligation of Commonwealth.--All bonds and notes  
18 issued in accordance with section 9511 shall be direct  
19 obligations of the Commonwealth, and the full faith and credit  
20 of the Commonwealth are hereby pledged for the payment of the  
21 interest thereon as it becomes due and the payment of the  
22 principal at maturity. The principal of and interest on the  
23 bonds and notes shall be payable in lawful money of the United  
24 States.

25       (d) Exemption from taxation.--All bonds and notes issued  
26 under the provisions of this section shall be exempt from  
27 taxation for State and local purposes.

28       (e) Form of bonds.--The bonds may be issued as coupon bonds  
29 or registered as to both principal and interest as the issuing  
30 officials may determine. If interest coupons are attached, they

1 shall contain the facsimile signature of the State Treasurer.

2 (f) Bond amortization.--The issuing officials shall provide  
3 for the amortization of the bonds in substantial and regular  
4 amounts over the term of the debt. The first retirement of  
5 principal shall be stated to mature prior to the expiration of a  
6 period of time equal to one-tenth of the time from the date of  
7 the first obligation issued to evidence the debt to the date of  
8 the expiration of the term of the debt. Retirements of principal  
9 shall be regular and substantial if made in annual or semiannual  
10 amounts, whether by stated serial maturities or by mandatory  
11 sinking fund retirements.

12 (g) Refunding bonds.--The issuing officials are authorized  
13 to provide for the issuance of refunding bonds for the purpose  
14 of refunding any bonds issued under this section and then  
15 outstanding, either by voluntary exchange with the holders of  
16 the outstanding bonds, or to provide funds to redeem and retire  
17 the outstanding bonds with accrued interest, any premium payable  
18 thereon and the costs of issuance and retirement of bonds, at  
19 maturity or at any call date. The issuance of the refunding  
20 bonds, the maturities and other details thereof, the rights of  
21 the holders thereof and the duties of the issuing officials in  
22 respect to the same shall be governed by the provisions of this  
23 section, insofar as they may be applicable. Refunding bonds may  
24 be issued by the issuing officials to refund bonds originally  
25 issued or to refund bonds previously issued for refunding  
26 purposes.

27 (h) Quorum.--Whenever any action is to be taken or decision  
28 made by the Governor, the Auditor General and the State  
29 Treasurer acting as issuing officials and the three officers are  
30 not able unanimously to agree, the action or decision of the

1 Governor and either the Auditor General or the State Treasurer  
2 shall be binding and final.

3 (i) Public sale.--Whenever bonds are issued, they shall be  
4 offered for sale at not less than 98% of the principal amount  
5 and accrued interest and shall be sold by the issuing officials  
6 to the highest and best bidder or bidders after due public  
7 advertisement on the terms and conditions and upon open  
8 competitive bidding as the issuing officials shall direct. The  
9 manner and character of the advertisement and the time of  
10 advertising shall be prescribed by the issuing officials.

11 (j) Private sale.--Any portion of any bond issue so offered  
12 and not sold or subscribed for may be disposed of by private  
13 sale by the issuing officials in the manner and at the prices,  
14 not less than 98% of the principal amount and accrued interest,  
15 as the issuing officials shall direct. No commission shall be  
16 allowed or paid for the sale of any bonds issued under the  
17 authority of this section.

18 (k) Bond series.--When bonds are issued from time to time,  
19 the bonds of each issue shall constitute a separate series to be  
20 designated by the issuing officials or may be combined for sale  
21 as one series with other general obligation bonds of the  
22 Commonwealth.

23 (l) Temporary bonds.--Until permanent bonds can be prepared,  
24 the issuing officials may in their discretion issue, in lieu of  
25 permanent bonds, temporary bonds in the form and with the  
26 privileges as to registration and exchange for permanent bonds  
27 as may be determined by the issuing officials.

28 (m) Disposition and use of proceeds.--The proceeds realized  
29 from the sale of bonds and notes, except funding bonds,  
30 refunding bonds and renewal notes, under the provisions of this

1 section are specifically dedicated to the purposes of the  
2 referendum to be implemented by this chapter and shall be paid  
3 into the Pennsylvania Railway Capital Loan Fund created under  
4 section 9514(a) (relating to department funds) in the State  
5 Treasury in amounts as may be specified by the department. The  
6 proceeds shall be paid by the State Treasurer periodically to  
7 the department to expend them at the times and in the amounts as  
8 may be necessary to satisfy the funding needs of the department.  
9 The proceeds of the sale of funding bonds, refunding bonds and  
10 renewal notes shall be paid to the State Treasurer and applied  
11 to the payment of principal, the accrued interest and premium,  
12 if any, and costs of redemption of the bonds and notes for which  
13 the obligations shall have been issued.

14 (n) Investment of funds.--Pending their application to the  
15 purposes authorized, moneys held or deposited by the State  
16 Treasurer may be invested or reinvested as are other funds in  
17 the custody of the State Treasurer in the manner provided by  
18 law. All earnings received from the investment or deposit of  
19 such funds shall be paid into the State Treasury to the credit  
20 of the Pennsylvania Railway Capital Loan Fund created by the  
21 department in section 9514(a) in the amounts as may be specified  
22 by the department under that section.

23 (o) Registration of bonds.--The Auditor General shall  
24 prepare the necessary registry book to be kept in the office of  
25 the authorized loan and transfer agent of the Commonwealth for  
26 the registration of any bonds, at the request of owners thereof,  
27 according to the terms and conditions of issue directed by the  
28 issuing officials.

29 (p) Expenses of preparation for issue and sale of bonds and  
30 notes.--There is hereby appropriated to the State Treasurer from

1 the proceeds of the bonds and notes issued as much money as may  
2 be necessary for all costs and expenses in connection with the  
3 issue of and sale and registration of the bonds and notes in  
4 connection with this chapter.

5 (q) Expenses of department.--There is hereby appropriated to  
6 the department from the proceeds of the bonds and notes issued  
7 as much money as may be necessary for all costs and expenses in  
8 connection with the administration of this chapter.

9 (r) Negotiable instrument designation.--Whether or not the  
10 bonds are of a form and character as to be negotiable  
11 instruments under the terms of Title 13 (relating to commercial  
12 code), the bonds are made negotiable instruments within the  
13 meaning of and for the purposes of Title 13, subject only to the  
14 provisions of the bonds for registration.

15 § 9513. Limits on loans for project funding.

16 Any loan made under this chapter shall be subject to the  
17 following:

18 (1) Loan funds may be used to finance no more than 85%  
19 of project costs.

20 (2) The original principal amount of a loan and the  
21 total of the principal balances of all loans to one borrower  
22 outstanding at any time shall not be more than \$10,000,000.

23 (3) The term of a loan may not be more than 20 years  
24 calculated from the time of making the loan.

25 (4) Security for a loan may be required by the  
26 department.

27 § 9514. Department funds.

28 (a) Pennsylvania Railway Capital Loan Fund.--The department  
29 shall create the Pennsylvania Railway Capital Loan Fund in the  
30 State Treasury for the purpose of depositing:

1           (1) Proceeds from sale of Commonwealth general  
2           obligation bonds issued under this chapter.

3           (2) Proceeds from sale of railroad real property.

4           (3) Payments from outstanding loans.

5           (4) Federal and State appropriations made under this  
6           chapter.

7           (b) Other funds.--The department may also create  
8           nonrevolving funds and accounts as it deems necessary and  
9           convenient to carry out the purposes of this chapter.

10          § 9515. Limitation on decisions, findings and regulations of  
11                   secretary.

12          All decisions, findings and regulations made by the secretary  
13          under this chapter shall be for the purpose of this chapter only  
14          and shall not constitute evidence before any regulatory body of  
15          the Commonwealth or any other jurisdiction.

16          Section 3. Those members currently serving on the Rail  
17          Freight Advisory Committee shall continue to serve until the  
18          expiration of their terms or until successors have been  
19          appointed and qualified, but no longer than six months beyond  
20          the expiration of their terms. This section shall not prohibit  
21          the reappointment of existing members in accordance with 74  
22          Pa.C.S. § 9502(b).

23          Section 4. The act of July 5, 1984 (P.L.587, No.119), known  
24          as the Rail Freight Preservation and Improvement Act, is  
25          repealed.

26          Section 5. This act shall take effect in 60 days.