

AMENDMENTS TO HOUSE BILL NO. 2065

Sponsor: SENATOR K. WARD

Printer's No. 3663

1 Amend Bill, page 1, lines 1 through 4, by striking out all of
2 said lines and inserting

3 Amending Title 74 (Transportation) of the Pennsylvania
4 Consolidated Statutes, in public-private transportation
5 partnerships, further providing for definitions, for duties
6 of board and for sovereign immunity.

7 Amend Bill, page 1, lines 7 through 18; page 2, lines 1
8 through 30; page 3, lines 1 through 23; by striking out all of
9 said lines on said pages and inserting

10 Section 1. The definitions of "private entity," "public
11 entity," "public-private transportation partnership agreement"
12 and "transportation facility" in section 9102 of Title 74 of the
13 Pennsylvania Consolidated Statutes are amended and the section
14 is amended by adding a definition to read:
15 § 9102. Definitions.

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

19 * * *

20 "Private entity." A person, entity, group or organization
21 that is not the Federal Government, the Commonwealth, a county,
22 a city of the first class, a city of the second class or a
23 municipal authority.

24 * * *

25 "Public entity." A Commonwealth agency as defined in 62
26 Pa.C.S. § 103 (relating to definitions), a county, a city of the
27 first class, a city of the second class, a municipal authority
28 or an authority created by statute which owns a transportation
29 facility. The term does not include the General Assembly and its
30 members, officers or agencies or any court or other office or
31 agency of the Pennsylvania judicial system.

32 "Public-private transportation partnership agreement." A
33 contract for a transportation project which transfers the rights
34 for the use or control, in whole or in part, of a transportation
35 facility by a public entity to a development entity for a

1 definite term during which the development entity will provide
2 the transportation project to the public entity in return for
3 the right to receive all or a portion of the revenue generated
4 from the use of the transportation facility, or other payment,
5 such as the following [transportation-related services]:

- 6 (1) Operations and maintenance.
- 7 (2) Revenue collection.
- 8 (3) User fee collection or enforcement.
- 9 (4) Design.
- 10 (5) Construction.
- 11 (6) Development and other activities with respect to
12 existing or new transportation facilities that enhance
13 traffic throughput, reduce congestion, improve safety [or
14 otherwise], manage or improve a transportation facility[.] or
15 support the advancement of alternative fuel vehicles or
16 highly automated vehicles authorized under 75 Pa.C.S.
17 (relating to vehicles).
- 18 (7) Financing.
- 19 (8) Driver and vehicle services.

20 * * *

21 "Transportation facility." A proposed or existing road,
22 bridge, tunnel, overpass, ferry, busway, guideway, public
23 transportation facility, vehicle parking facility, port
24 facility, multimodal transportation facility, airport, station,
25 hub, terminal, rest area, weigh station, weigh station bypass,
26 welcome center, unmanned aerial system or similar facility used
27 or to be used for the transportation of persons, animals or
28 goods, together with any buildings, structures, parking areas,
29 appurtenances, intelligent transportation systems and other
30 property needed to operate or related to the operation of the
31 transportation facility. The term includes any improvements or
32 substantial enhancements or modifications to an existing
33 transportation facility or transportation-related service.

34 * * *

35 "Transportation-related service." A proposed or existing
36 service offered by the department or a Commonwealth agency to
37 provide a product, permit or similar authorization in a
38 transaction for a resident or nonresident to move individuals or
39 property within this Commonwealth during the normal course of
40 business or a declaration by the Governor of disaster emergency
41 under 35 Pa.C.S. §7301 (c) (relating to general authority of
42 Governor).

43 Section 2. Sections 9104(a)(5), 9108 and 9117 are amended to
44 read:

45 § 9104. Duties of board.

46 (a) Duties.--The board shall do all of the following:

47 * * *

48 (5) Submit an annual report to the General Assembly
49 [detailing all transportation projects evaluated and
50 resolutions adopted.] , including, but not limited to, the
51 following:

- 1 (i) A description of all transportation projects
2 evaluated and resolutions adopted.
3 (ii) A description of all transportation projects
4 denied and reasons for the denial.
5 (iii) A description of all unsolicited plans for
6 transportation projects submitted by private entities and
7 the status of the board's evaluation of the unsolicited
8 plans.
9 (iv) A description of all requests for
10 transportation projects submitted by public entities and
11 the status of the board's evaluation of the requests.

12 * * *

13 § 9108. Requests.

14 A request may be solicited or unsolicited and may provide for
15 the development or operation of transportation facilities or
16 transportation-related services using a variety of project
17 delivery methods and forms of agreement. The methods may
18 include:

- 19 (1) Predevelopment agreements leading to other
20 implementing agreements.
21 (2) A design-build agreement.
22 (3) A design-build-operate agreement.
23 (4) A design-build-maintain agreement.
24 (5) A design-build-finance-operate agreement.
25 (6) A design-build-operate-maintain agreement.
26 (7) A design-build-finance-operate-maintain agreement.
27 (8) An operate-maintain agreement.
28 (9) A concession providing for the development entity to
29 design, build, operate, maintain, manage or lease a
30 transportation facility.
31 (10) Any other innovative or nontraditional project
32 delivery method or agreement or combination of methods or
33 agreements that the public entity determines will address the
34 transportation needs of the Commonwealth and the public
35 entity and serve the public interest.

36 § 9117. Sovereign immunity.

37 Under section 11 of Article I of the Constitution of
38 Pennsylvania, it is declared to be the intent of the General
39 Assembly that the Commonwealth, and its officials and employees,
40 a county and its officials and employees, a city of the first
41 class and its officials and employees, a city of the second
42 class and its officials and employees, and a municipal
43 authority, and its officials and employees, acting within the
44 scope of their duties, shall continue to enjoy sovereign
45 immunity and official immunity and remain immune from suit
46 except as provided in section 9118 (relating to specific
47 performance). A claim against the Commonwealth and its officials
48 and employees, a county and its officials and employees, a city
49 of the first class and its officials and employees, a city of
50 the second class and its officials and employees, or municipal
51 authority and its officials and employees shall be brought only

1 in such manner and in such courts and in such cases as directed
2 by the provision of section 9110(e) (relating to public-private
3 transportation partnership agreement), 42 Pa.C.S. Ch. 85
4 (relating to matters affecting government units), 62 Pa.C.S. Ch.
5 17 (relating to legal and contractual remedies) or any
6 procurement law applicable to a county, a city of the first
7 class, a city of the second class or municipal authority.

8 Section 4. This act shall take effect in 60 days.