

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2411 Session of
1998

INTRODUCED BY DRUCE, FARGO, SAYLOR, SCHULER, HALUSKA, STABACK,
ROSS, E. Z. TAYLOR, LYNCH, SATHER, STERN, BUNT, RAYMOND AND
BENNINGHOFF, MARCH 17, 1998

REFERRED TO COMMITTEE ON JUDICIARY, MARCH 17, 1998

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, providing for a right of
3 action to recover additional costs incurred for certain civil
4 actions.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 42 of the Pennsylvania Consolidated Statutes
8 is amended by adding a section to read:

9 § 8503. Commonwealth right to recover additional costs.

10 (a) Commonwealth projects.--In a civil action against the
11 Commonwealth regarding a project, the Commonwealth may recover
12 from the plaintiff the additional costs caused by the delay to
13 the scheduled completion of the project, provided that:

14 (1) The court determines that the additional costs were
15 directly caused by the commencement of the action or any
16 dilatory, obdurate or vexatious conduct of the plaintiff
17 during the pendency of the action.

18 (2) The action is dismissed against the plaintiff,

1 discontinued or decided in favor of the Commonwealth on the
2 merits or otherwise.

3 (b) Constitutional or statutory challenges.--In any civil
4 action against the Commonwealth where the plaintiff challenges
5 the constitutionality of a statute and seeks to prevent the
6 implementation of the statute, or where the plaintiff challenges
7 the lawfulness of an agency's implementation of a statute, the
8 Commonwealth may recover from the plaintiff the additional costs
9 incurred by any delay to the implementation of the statute,
10 provided that:

11 (1) The court determines that the additional costs were
12 directly caused by the commencement of the action or any
13 dilatory, obdurate or vexatious conduct of the plaintiff
14 during the pendency of the action.

15 (2) The court determines that the statute in question is
16 constitutional or the agency's implementation of the statute
17 was lawful.

18 (c) Claim for additional costs.--The Commonwealth may
19 request recovery of the additional costs in the same civil
20 action at any time, provided that prior to submitting the
21 request, the Commonwealth:

22 (1) Estimates the additional costs to the project, or to
23 the implementation of the statute, if the litigation causes
24 or is expected to cause delay.

25 (2) Provides the plaintiff with the estimate of the
26 additional costs and notifies the plaintiff that the
27 Commonwealth intends to seek recovery of the additional costs
28 under this section.

29 (d) Definitions.--As used in this section, the following
30 words and phrases shall have the meanings given to them in this

1 subsection:

2 "Agency." Any executive agency or independent agency of this
3 Commonwealth.

4 "Plaintiff." The party that commences the civil action,
5 including an individual, corporation, business entity, interest
6 group or political subdivision.

7 Section 2. This act shall take effect immediately.