
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1154 Session of
1975

INTRODUCED BY MURRAY, MESSINGER, FRAME AND MANBECK,
NOVEMBER 17, 1975

REFERRED TO APPROPRIATIONS, NOVEMBER 17, 1975

AN ACT

1 Authorizing development of rural and intercity common carrier
2 surface transportation.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short Title.--This act shall be known and may be
6 cited as the "Pennsylvania Rural and Intercity Common Carrier
7 Surface Transportation Assistance Act."

8 Section 2. Findings and Declaration of Policy.--(a) It is
9 hereby determined and declared as a matter of legislative
10 finding:

11 (1) That the welfare and vitality of the Commonwealth, the
12 satisfactory movement of people and goods within the
13 Commonwealth, and the effectiveness of highway, industrial
14 development and other programs are being jeopardized by the
15 deterioration or inadequate provision of rural and intercity
16 common carrier surface transportation facilities and services,
17 the intensification of traffic congestion, railroad bankruptcies
18 and the lack of coordinated transportation and other development

1 planning on a comprehensive basis.

2 (2) That State financial assistance for the development of
3 efficient and coordinated intercity common carrier surface
4 transportation systems, facilities and services is essential to
5 the solution of these Statewide problems.

6 (3) That efficient and coordinated intercity common carrier
7 surface transportation systems, facilities and services will
8 promote the public health, safety, convenience and welfare.

9 (4) That modern, efficient intercity common carrier surface
10 transportation is a necessary part of a balanced transportation
11 system.

12 (5) That the Regional Rail Reorganization Act of 1973
13 (Pub.L.93-236) requires State participation in the continuation
14 of branch line rail service.

15 (b) Therefore, it is hereby declared to be the policy of the
16 General Assembly of the Commonwealth of Pennsylvania to promote
17 the health, safety, convenience and welfare of its inhabitants
18 by means of State financed projects and financial assistance for
19 the development of efficient and coordinated rural and intercity
20 common carrier surface transportation systems, facilities and
21 services. Such purposes are hereby declared to be public uses.

22 Section 3. Definitions.--As used in this act:

23 "Capital project" means the constructing, improving,
24 equipping and/or leasing of any system of rural and intercity
25 common carrier surface transportation or any components thereof,
26 including but not limited to rolling stock, including self-
27 propelled and multiple unit cars, freight cars, locomotives,
28 passenger buses, and wires, poles and equipment for the
29 electrification of any of the foregoing, rails, tracks,
30 roadbeds, guideways, elevated structures, buildings, stations,

1 terminals, docks, shelters, airports and parking areas for use
2 in connection with rural and intercity common carrier surface
3 transportation systems; right-of-way, interconnecting lines and
4 tunnels; or any improvement of or equipment or furnishings for
5 any of the foregoing or any part of fractional and undivided co-
6 ownership interest in any one or combination of any of the
7 foregoing, that may be designated as a capital project by the
8 secretary. "Capital project" shall also include the acquisition,
9 by purchase or assignment or otherwise, of all or part of any
10 construction or acquisition contract from any transportation
11 organization or company relating to any project or projects at
12 any stage of construction, or after completion.

13 "Department" means the Pennsylvania Department of
14 Transportation.

15 "Federal agency" means and includes the United States of
16 America, the President of the United States of America, and any
17 department of, or corporation, agency, or instrumentality
18 heretofore or hereafter created, designated or established by
19 the United States of America.

20 "Project grant" means and includes the Commonwealth's share
21 of the cost of carrying out the particular project, which may
22 include costs incurred prior to the effective date of this act
23 and which cost shall include an appropriate allowance for the
24 administrative expenses involved in carrying out the project.

25 "Rural and intercity common carrier surface transportation"
26 means transportation provided by any and all persons or
27 corporations holding out, offering, or undertaking, directly or
28 indirectly, service for compensation to the public for the
29 transportation of passengers or property, or both, or any class
30 of passengers or property, other than passenger transportation

1 provided wholly within an urbanized area by, through, over,
2 above, or under land, or water and shall include transportation
3 provided by forwarders, but shall not include transportation
4 provided by contract carriers by motor vehicles, or brokers, or
5 any bona fide cooperative association transporting property
6 exclusively for the members of such association on a nonprofit
7 basis.

8 "Secretary" means the Pennsylvania Secretary of
9 Transportation.

10 "Transportation company" means and includes any person, firm
11 or corporation rendering common carrier surface transportation
12 service, in this Commonwealth pursuant to common carrier
13 authorization from the Pennsylvania Public Utility Commission or
14 the Interstate Commerce Commission or the United States Railway
15 Association.

16 "Transportation organization" means any political subdivision
17 or any mass transportation or port authority or airport
18 authority now or hereafter organized under the law of
19 Pennsylvania or pursuant to an interstate compact or otherwise
20 empowered to render transportation service or assist in the
21 rendering of transportation service in the Commonwealth of
22 Pennsylvania, even though it may also render transportation
23 service in adjacent states, or any combination of two or more of
24 such entities.

25 Section 4. Program Authorizations.--The department is hereby
26 authorized, within the limitations hereinafter provided:

27 (1) To undertake and to provide financial support for
28 research projects, by contract or otherwise, concerning rural
29 and intercity common carrier surface transportation.

30 (2) To undertake projects and to make project grants to

1 transportation organizations or transportation companies:

2 (i) For the purpose of studies, analysis, planning and
3 development of programs for rural and intercity common carrier
4 surface transportation service and facilities, and for the
5 purpose of activities related to the planning, engineering and
6 designing of specific rural and intercity common carrier
7 transportation projects which are a part of a comprehensive
8 program, including, but not limited to, activities such as
9 studies relating to management, operation, capital requirements
10 and economic feasibility, to the preparation of engineering and
11 architectural surveys, plans and specifications, and to other
12 similar or related activities preliminary to and in preparation
13 for the construction, acquisition or improved operation of rural
14 and intercity common carrier surface transportation systems,
15 facilities and equipment.

16 (ii) To provide for research, development and demonstration
17 projects in all phases of rural and intercity common carrier
18 surface transportation (including the development, testing and
19 demonstration of new facilities, equipment, techniques and
20 methods) to assist in the solution of rural and intercity common
21 carrier surface transportation problems, in the improvement of
22 rural and intercity common carrier surface transportation
23 service, and the contribution of such service toward meeting
24 total rural and intercity common carrier surface transportation
25 needs at minimum cost.

26 (iii) To provide for programs designed solely to advertise,
27 promote and stimulate the development and use of rural and
28 intercity common carrier surface transportation facilities.

29 (iv) To finance or assist in financing the provision or
30 continuation of necessary rural and intercity common carrier

1 surface transportation service, to permit continuation of and/or
2 needed improvements in services which are not self-supporting,
3 and to permit services which may be socially and economically
4 desirable but not capable of generating a net income. Each
5 project and project grant shall be subject to annual review and
6 renewal by the secretary. Each project grant shall be based upon
7 a program or plan approved by the department as in furtherance
8 of a coordinated rural and intercity common carrier surface
9 transportation plan for the Commonwealth, and not involving
10 unnecessary and unfair competition. No State grant shall be made
11 for a particular project unless the department determines and
12 finds for said project that:

13 (A) the project is necessary in the public interest; and

14 (B) the intercity and rural common carrier is taking or will
15 take continuing action to improve the service and hold losses to
16 a minimum.

17 No agreement referred to in this paragraph (2) shall impair,
18 suspend, contract, enlarge or extend or affect in any manner the
19 powers of the Pennsylvania Public Utility Commission or the
20 Interstate Commerce Commission or the United States Railway
21 Association otherwise applicable by law.

22 (3) To undertake capital projects and make capital project
23 grants to transportation organizations and/or transportation
24 companies if the primary purpose thereof, as determined by the
25 department which determination shall be conclusive, is to
26 facilitate and improve rural and intercity common carrier
27 surface transportation, in accordance with the programs of the
28 department. In view of the particular sensitivity of special
29 instrumentalities and agencies of the Commonwealth created to
30 serve or coordinate the local transportation needs of

1 substantial metropolitan areas, no passenger service project for
2 use exclusively or principally in the local service area of any
3 such agency or instrumentality in which a city or county of the
4 first or second class has membership, shall receive a project
5 grant except in accordance with a system of priorities agreed
6 upon by the department and such agency or instrumentality. In
7 the case of a project grant for a passenger service project to
8 be operated exclusively or principally within the local service
9 areas of such agency or instrumentality no project grant shall
10 be made except in accordance with agreements by the department
11 and such agency or instrumentality with respect to such use. In
12 the case of a project not falling within the scope of the
13 preceding sentence but covering use both within and without the
14 local service area of such agency or instrumentality, the
15 project grant shall require that the routes, schedules, and
16 fares applicable only within such service areas shall be
17 determined only after consultation with such agency or
18 instrumentality.

19 (4) Projects may be undertaken and project grants may be
20 made with reference to any appropriate project, irrespective of
21 when it was first commenced or considered and regardless of
22 whether costs with respect thereto shall have been incurred
23 prior to the time the project is undertaken or the project grant
24 is applied for or made.

25 Section 5. Intercity Rail Passenger Service Program.--(a)
26 The department may cooperate and contract with the National
27 Railroad Passenger Corporation for any intercity rail passenger
28 services deemed necessary, convenient or desirable by the
29 secretary, within the amounts available by appropriation
30 therefor, as such services are made available pursuant to the

1 provisions of the Federal Rail Passenger Service Act of 1970 and
2 any acts amendatory or supplemental thereto. Notwithstanding any
3 inconsistent law, general, special or local, the secretary, as
4 funds are made available for the purposes hereof, is hereby
5 empowered to contract with such corporation and to do all other
6 things necessary, convenient or desirable on behalf of the
7 Commonwealth to secure the full benefits available under and
8 pursuant to such act, and to contract and do all other things
9 necessary as hereinafter provided on behalf of the Commonwealth
10 to effect the intercity rail passenger service program which he
11 determines is necessary, convenient or desirable. Such
12 requirements shall include compliance with labor protection
13 provisions of the National Railroad Passenger Act.

14 (b) The department shall coordinate the intercity rail
15 passenger activities of the Commonwealth and other interested
16 public and private organizations and persons to effectuate the
17 purposes of this section and shall have the responsibility for
18 negotiating with the Federal Government with respect to
19 intercity rail passenger service programs. The secretary is
20 authorized to enter into joint service agreements between the
21 Commonwealth and any railroad company; any other Commonwealth
22 department or agency or instrumentality thereof; any Federal
23 agency; any other state or agency or instrumentality thereof; or
24 any political subdivision or municipality of the Commonwealth or
25 any other state, or any instrumentality thereof, relating to
26 property, buildings, structures, facilities, services, rates,
27 fares, classifications, dividends, allowances or charges
28 (including charges between intercity rail passenger service
29 facilities), or rules or regulations pertaining thereto, for or
30 in connection with or incidental to transportation in whole or

1 in part upon intercity rail passenger service facilities.
2 Intercity rail passenger service facilities include the right-
3 of-way and related trackage, rails, cars, locomotives, or other
4 rolling stock, signal, power, fuel, communication and
5 ventilation systems, power plants, stations, terminals, storage
6 yards, repair and maintenance shops, yards, equipment and parts,
7 offices and other real estate or personality used or held for or
8 incidental to the operation, rehabilitation or improvement of
9 any railroad operating intercity rail passenger service or to
10 operate such service, including but not limited to buildings,
11 structures, and rail property.

12 (c) With the approval of the Governor or his designee, the
13 secretary may on such terms and conditions as he may determine
14 necessary, convenient or desirable rehabilitate any such
15 intercity rail passenger service facility or any related
16 services and activities, or may provide for such by contract,
17 lease or other arrangement on such terms as the secretary may
18 deem necessary, convenient or desirable with any agency,
19 corporation or person, including but not limited to any railroad
20 company, any State agency, the Federal Government, any other
21 state or agency or instrumentality thereof, any public authority
22 of this or any other state, or any political subdivision or
23 municipality of the State. As used in this subsection,
24 rehabilitate may include renovation, improvement, extension,
25 repair, or, where incidental and money-saving, construction of
26 part of any such intercity rail passenger service facility or
27 related services and activities.

28 Section 6. Cooperation With Other Governments and Private
29 Interests.--(a) The department is directed to administer all
30 projects under this act with such flexibility as to promote and

1 encourage full cooperation and financial participation of
2 Federal, State and local governments, agencies and
3 instrumentalities, as well as private interests, so as to result
4 in as effective and economical a program as possible. State
5 financed projects as authorized under this act shall require
6 local financial participation to the extent deemed reasonable by
7 the secretary as expressed by rule or regulation. The department
8 shall respond to the requirements of the Regional Rail
9 Reorganization Act of 1973 for the preservation of railroad
10 service by means of operating assistance or acquisition, and
11 shall follow planning requirements related thereto. The
12 department shall recognize the applicable provisions of the
13 Regional Rail Reorganization Act of 1973 for the protection of
14 employees who may be adversely affected by provision of the
15 Regional Rail Reorganization Act of 1973, and shall insure
16 compliance with such provisions.

17 (b) The department is hereby authorized to enter into
18 agreements providing for mutual cooperation between it and any
19 Federal agency and any transportation organization, or
20 transportation company, or one or more of them, in any or all
21 projects, including joint applications for Federal grants.

22 (c) It is the purpose and intent of this act to authorize
23 the department to do any and all other things necessary or
24 desirable to secure the financial aid or cooperation of any of
25 the department's projects, and to do and perform all things
26 which may be required by any statute of the United States of
27 America or by the lawful requirements of any Federal agency
28 authorized to administer any program of Federal aid to
29 transportation.

30 Section 7. Contracts; Procurement and Sale of Property;

1 Competition in Award of Contracts.--(a) The department shall
2 have power and authority to enter into contracts and to make
3 joint contracts of purchase with any transportation organization
4 and/or company in any manner complying with the law applicable
5 to such transportation organization and/or company. The
6 department shall also have power and authority to make contracts
7 for the improvement of any rights-of-way, roadbeds or rolling
8 stock, or electrification systems, or other transportation
9 systems, or parts thereof, constituting a project without
10 advertisement for competitive bids, where such work is to be
11 done at cost by the personnel and with the facilities of the
12 local transportation organization or company on whose system
13 such property is to be used. The department may sell, transfer,
14 or lease all, or any part, of the rail properties and other
15 property acquired under the provisions of this act to any
16 responsible person, firm, or corporation for continued operation
17 of a railroad, or other public purpose, provided that approval
18 for the continued operation, or other public purpose, is granted
19 by the Interstate Commerce Commission of the United States,
20 whenever approval is required.

21 (b) Except in the purchase of projects from a transportation
22 organization, or in the purchase of unique articles, or articles
23 which, for any other reason, cannot be obtained in the open
24 market, and except as herein specifically provided, competitive
25 bids shall be secured before any purchase or sale, by contract
26 or otherwise, is made or before any contract is awarded for
27 construction, alterations, supplies, equipment, repairs or
28 maintenance or for rendering any services to the department
29 other than professional services; and the purchase shall be made
30 from or the contract shall be awarded to the lowest responsible

1 bidder; or a sale to the highest responsible bidder. No purchase
2 of any unique article or other articles which cannot be obtained
3 in the open market shall be made without express approval of the
4 secretary where the amount involved is in excess of \$5,000.

5 (c) Except as herein specifically provided otherwise, all
6 purchases and sales in excess of \$5,000 shall be awarded after
7 advertising in a newspaper of general circulation in the area
8 where the property is to be used not less than two weeks prior
9 to the bid opening. Bids shall be publicly opened and read aloud
10 at a date, time and place designated in the invitation to bid.
11 In all cases of purchases or sales in excess of \$5,000
12 authorized hereunder to be made without competitive bidding
13 except purchases from or sales to a transportation organization
14 or contracts with a transportation company pursuant to
15 subsection (a), invitations to bid shall be sent not less than
16 one week prior to the bid opening to at least three potential
17 bidders who are qualified technically and financially to submit
18 bids, or in lieu thereof a memorandum shall be kept on file
19 showing that less than three potential bidders so qualified
20 exist in the market area within which it is practicable to
21 obtain bids.

22 (d) Purchases or sales under \$5,000 may be negotiated with
23 or without competitive bidding under sound procurement
24 procedures as promulgated and established by the secretary.

25 (e) Competitive bidding requirements may be waived if it is
26 determined in such manner as the secretary may, by regulation,
27 provide that an emergency directly and immediately affecting
28 customer service, or public health, safety or welfare requires
29 immediate delivery of supplies, materials, or equipment:
30 Provided, however, That a record of circumstances explaining the

1 emergency shall be submitted to the secretary and kept on file.

2 (f) Contracts for the sale or lease of property owned by the
3 department shall be awarded after competitive bidding as shown
4 in subsection (c), except where a contract is entered into with
5 any political subdivision or agency or instrumentality of the
6 Commonwealth, transportation organization, transportation
7 company, or Federal agency.

8 (g) Requirements shall not be split into parts for the
9 purpose of avoiding the provisions of this section.

10 (h) The department shall have the right to reject any or all
11 bids or parts of any or all bids, whenever, in the opinion of
12 the secretary, such rejection is necessary for the protection of
13 the interest of the Commonwealth. In every such case, a record
14 shall be made, setting forth the reason for such rejection which
15 record shall thereafter be kept on file.

16 (i) The secretary shall adopt rules and regulations to
17 effectuate the provisions of this section.

18 (j) The secretary shall have the power to accept the
19 assignment from any transportation organization or company of
20 all or any interest in any lawfully made contract for the
21 procurement and purchase of any asset deemed necessary or
22 desirable by the secretary in connection with any project.

23 Section 8. Power to Acquire Property.--(a) The secretary
24 shall have the power to acquire by purchase, lease, eminent
25 domain proceedings, gift or otherwise all or any property, in
26 such estate as he shall determine, for promoting the purposes of
27 this act, including any property of a public utility, except
28 that no line, route, franchise, certificate of public
29 convenience, or certificate of authorization of a transportation
30 company, or interest in any thereof shall be acquired without

1 the consent of such company. All political subdivisions and
2 corporations are hereby authorized to donate property to the
3 department.

4 (b) Eminent domain proceedings shall be in accordance with
5 the act of June 22, 1964 (Sp. Sess., P.L.84, No.6), known as the
6 "Eminent Domain Code," and the department is empowered to join
7 with any transportation organization in obtaining any property
8 through such eminent domain proceedings.

9 Section 9. Rules and Regulations of the Department.--In
10 order to effectuate and enforce the provisions of this act, the
11 department is authorized to promulgate necessary rules and
12 regulations and prescribe conditions and procedures in order to
13 assure compliance in carrying out the purposes for which grants
14 may be made hereunder. Such rules and regulations shall also
15 provide for the observance of the relevant safety standards of
16 any regulatory body having jurisdiction to promulgate such
17 standards, but the department shall not be authorized hereby to
18 do anything or suffer or permit any action which will violate
19 any agreement with a transportation organization or company or
20 any Federal agency, or impair, suspend, contract, enlarge or
21 extend, or affect in any manner the powers of the Pennsylvania
22 Public Utility Commission, or of the Interstate Commerce
23 Commission, which by law are applicable to the transportation
24 organization or company involved.

25 Section 10. Grants by Transportation Organizations.--Any
26 transportation organization shall be and is hereby authorized to
27 make annual grants from current revenues in order to participate
28 in rural and intercity common carrier surface transportation
29 projects and to enter into long-term agreements providing for
30 the payment of the same. The obligation of a political

1 subdivision under any such agreement shall not be considered to
2 be a part of its indebtedness, nor shall such obligation be
3 deemed to impair the status of any indebtedness of such
4 political subdivision which would otherwise be considered as
5 self-sustaining.

6 Section 11. Limitation on Decisions; Findings and
7 Regulations Made by the Secretary.--All decisions, findings and
8 regulations made by the secretary pursuant to this act shall be
9 for the purpose of this act only and shall not constitute
10 evidence before any regulatory body of this Commonwealth or any
11 other jurisdiction.

12 Section 12. Constitutional Construction.--The provisions of
13 this act shall be severable, and if any of the provisions
14 thereof shall be held unconstitutional, such decisions shall not
15 affect the validity of any of the remaining provisions of this
16 act. It is hereby declared as the legislative intent that this
17 act would have been adopted had such unconstitutional provision
18 not been included herein.

19 Section 13. Effective Date.--This act shall take effect
20 immediately.