

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 800

Session of  
1979

INTRODUCED BY WILSON, DAVIES AND KOLTER, MARCH 20, 1979

REFERRED TO COMMITTEE ON TRANSPORTATION, MARCH 20, 1979

AN ACT

1 Amending the act of June 1, 1945 (P.L.1242, No.428), entitled  
2 "An act relating to roads, streets, highways and bridges;  
3 amending, revising, consolidating and changing the laws  
4 administered by the Secretary of Highways and by the  
5 Department of Highways relating thereto," establishing  
6 procedures for the leasing of motorized equipment for the  
7 maintenance and repair of State highways.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. The act of June 1, 1945 (P.L.1242, No.428), known  
11 as the "State Highway Law," is amended by adding a section to  
12 read:

13 Section 408.1. Procedures for Lease of Equipment for  
14 Maintenance of Highways.--(a) The department shall promulgate  
15 rules and regulations setting forth the categories and  
16 specifications of motorized equipment (hereinafter referred to  
17 as equipment) used in the maintenance or repair of State  
18 highways to be leased, procedures for competitive bidding for  
19 equipment, application procedures and eligibility regulations.  
20 In no case shall such rules, specifications and regulations for  
21 eligibility or qualification be more stringent than those

1 imposed by the department for equipment operation or  
2 specification standards for equipment purchased by the  
3 department. The department shall cause advertisements by public  
4 notices, inserted at least twice in one or more newspapers of  
5 general circulation in the county in which the equipment is to  
6 be used and where the equipment is to be placed. Where the  
7 equipment is to be used in more than one county, then  
8 advertisements by public notices shall be inserted in at least  
9 two newspapers in at least two such counties, the earlier of at  
10 least three weeks before competitive bids are to be submitted or  
11 April 30 of each year, notifying the public of the following:

12 (1) Each category of equipment to be leased within such  
13 maintenance district and the specifications therefor.

14 (2) The location where the plans and specifications may be  
15 had and the time and place of the filing of competitive bids and  
16 letting of the leasing contracts.

17 (b) The department shall contract with the lowest qualified  
18 bidder whose equipment meets the specifications set forth by the  
19 department, as verified by the chief mechanic of the engineering  
20 district, for the use of such equipment within the maintenance  
21 district wherein the owner of the equipment has a place of  
22 regular business operation, provided that an application is made  
23 and the applicant otherwise meets all qualifications as  
24 contained in the rules issued by the department. All contracts  
25 shall be for a duration as determined by the department and as  
26 advertised.

27 (c) (1) The department shall accept the lowest qualified  
28 bid offered for the leasing of equipment in each maintenance  
29 district of the Commonwealth. However, should the lowest bid  
30 received provide insufficient amount of equipment necessary to

1 meet the requirements of the department, the second lowest  
2 competitive bidder will be offered the first opportunity to  
3 provide additional leased equipment on condition that the hourly  
4 rental rates are equal to or less than the rate at which the  
5 department uses its own equipment and are allowed by the  
6 department.

7 (2) All contracts shall be made in the name of the  
8 Commonwealth of Pennsylvania and shall be signed by the  
9 secretary, and shall be approved as to form and legality by the  
10 Department of Justice.

11 (3) The department may refuse to contract with any person  
12 whose performance during the prior contract year was  
13 unsatisfactory, upon the recommendation of the district  
14 engineer, provided the maintenance district supervisor's office  
15 sets forth specifically the facts underlying its claim of  
16 unsatisfactory performance. Any lessor who wishes to contest a  
17 recommendation for no contract by the maintenance office may  
18 request and receive a hearing before a hearing examiner of the  
19 department. The hearing shall take place in the county wherein  
20 the maintenance office is located. The hearing examiner may  
21 administer oaths, take testimony and make a recommendation to  
22 the secretary as to whether the performance of said lessor was  
23 sufficiently inadequate as to warrant the department to refuse  
24 to contract with said lessor. The hearing examiner may also hear  
25 lessor grievances and make appropriate recommendations to the  
26 secretary. The secretary shall have the responsibility to  
27 consider the findings of the hearing examiner and issue a final  
28 decision in writing to the lessor contesting a recommendation  
29 for no contract, and no finding of the secretary which supports  
30 a determination of a hearing examiner with respect to contracts

involving equipment, performance or qualifications shall be overturned by the courts absent a clear abuse of discretion. All hearing examiners utilized by the department for the purposes of this subsection shall be civil service employees, and the Civil Service Commission is authorized to develop or revise class specifications and examinations as necessary, under the provisions of the act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act."

(d) Any Commonwealth employee, official or agent who violates any provision of this act shall be guilty of a misdemeanor of the first degree.

(e) Any lessor who violates any provision of this act shall be guilty of a misdemeanor of the first degree and upon conviction of said violation may have any equipment under lease to the Commonwealth at the date of the violation, confiscated by the Commonwealth and held for a term equal to the actual or suspended sentence imposed by the court.

(f) (1) The provisions of this section shall not apply to equipment leasing agreements with local municipalities or other governmental agencies, including snow and ice control removal done under such agreements, and in emergency cases.

(2) "Emergency cases" shall mean those cases of natural disaster, upon which the Governor of the Commonwealth decrees a state of emergency and the avoidance of the provisions of this section, by the secretary of the department, are necessary to the health, safety and welfare of the citizens of the Commonwealth.

Section 2. This act shall take effect in 60 days.