

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2149 Session of
1999

INTRODUCED BY PIPPY, PRESTON, COSTA, DALEY, FRANKEL, GIGLIOTTI,
HABAY, LAUGHLIN, MAHER, MARKOSEK, MAYERNIK, MICHLOVIC, ORIE,
PETRARCA, PETRONE, PISTELLA, READSHAW, ROBINSON, RUFFING,
STEVENSON, TRICH, VAN HORNE AND WALKO, DECEMBER 13, 1999

REFERRED TO COMMITTEE ON URBAN AFFAIRS, DECEMBER 13, 1999

AN ACT

1 Amending the act of December 14, 1992 (P.L.818, No.133),
2 entitled "An act establishing the Port of Pittsburgh
3 Commission; providing for its powers and duties; and making a
4 repeal," further providing for specific powers of the
5 commission; providing for economic development projects; and
6 further providing for rights of obligees and for contracts
7 and purchases.

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

10 Section 1. Section 5(b)(23) of the act of December 14, 1992
11 (P.L.818, No.133), known as the Port of Pittsburgh Commission
12 Act, is amended to read:

13 Section 5. Powers.

14 * * *

15 (b) Specific powers.--In addition to the general powers
16 described in subsection (a), the commission is granted and shall
17 have and may exercise, without limiting the generality of the
18 purposes of this act, the following specific rights and powers:

19 * * *

(23) [To] Subject to the provisions of section 5.1, to
fix, alter, charge and collect fees, rates, rentals and other
charges for port facilities and port-related projects of the
commission at reasonable rates to be determined exclusively
by the commission, subject to appeal, for the purpose of
providing for the payment of the expenses of the commission,
the acquisition, construction, improvement, repair and
maintenance of the port facilities, port-related projects and
properties of the commission and the payment of the principal
and interest on obligations of the commission and to comply
fully with the terms and provisions of any agreements made
with the purchasers or holders of any such obligations.

* * *

Section 2. The act is amended by adding a section to read:

Section 5.1. Economic development projects.

When the commission undertakes the development of a port
facility, port-related project or recreation project and the
commission agrees to lease, lease with option or contract to
purchase, sell or otherwise make available to a third party the
port facility, port-related project or recreation project, the
third party shall pay the commission an amount that is
sufficient to pay all of the principal and interest on any
bonds, notes or other evidence of indebtedness issued by the
commission to finance the port facility, port-related project or
recreation project, an amount which the board finds to be
reasonable in light of the economic benefits that will result
from the project, or an amount which is reasonable and proper
under the circumstances. Bonds, notes or other evidence of
indebtedness issued by the commission with respect to a port
facility, port-related project or recreation project under this

section shall be limited obligations of the commission payable solely out of any revenues received by the commission with respect to the port facility, port-related project or recreation project, including, but not limited to, the payments received from the third party under this section, and the interest of the commission in the port facility, port-related project or recreation project, if any. The provisions of sections 5(b)(23), 7(c) and 11(c) shall not apply to a port facility, port-related project or recreation project developed under this section.

Section 3. Sections 7(c) and 11 of the act are amended to read:

Section 7. Rights and remedies of obligees.

* * *

(c) Restrictions.--[Nothing] Except as otherwise provided in section 5.1, nothing in this section or any other section of this act shall authorize any receiver appointed pursuant to this act for the purpose of operating and maintaining any port facilities, port-related projects or property of the commission to sell, assign, mortgage or otherwise dispose of any of the assets of whatever kind or character belonging to the commission. It is the intention of this act to limit the powers of such receiver to the operation and maintenance of the port facilities, port-related projects and property of the commission as the court shall direct, and no holder or holders of bonds of the commission nor any trustee or other obligee shall ever have the right in any suit, action or proceeding, at law or in equity, to compel a receiver nor shall any receiver ever be authorized or any court be empowered to direct the receiver to sell, assign, mortgage or otherwise dispose of any assets of whatever kind or character belonging to the commission.

1 * * *

2 Section 11. Contracts and purchases.

3 (a) Building and construction contracts.--All construction,
4 reconstruction, repairs or work of any nature made by the
5 commission, where the entire cost, value or amount of such
6 construction, reconstruction, repairs or work, including labor
7 and materials, exceeds \$10,000, except construction,
8 reconstruction, repairs or work done by employees of the
9 commission or by labor supplied under agreement with the Federal
10 Government, the Commonwealth or political subdivisions, with
11 supplies and material purchased as provided in this section,
12 shall be done only under contract or contracts to be entered
13 into by the commission with the lowest responsible bidder upon
14 proper terms after due public notice has been given asking for
15 competitive bids as provided in this section. The commission
16 shall have the right to reject any or all bids or select a
17 single item from any bid notwithstanding the provisions of this
18 section. No contract shall be entered into for construction or
19 improvement or repair of any project or portion thereof, unless
20 the contractor provides sufficient surety or sureties approved
21 by the commission, and in an amount fixed by the commission, for
22 the performance of the contract, and has complied with the
23 provisions of the act of December 20, 1967 (P.L.869, No.385),
24 known as the Public Works Contractors' Bond Law of 1967. All
25 such contracts shall provide that the person or corporation
26 entering into such contract with the commission will pay for all
27 materials furnished and services rendered for the performance of
28 the contract and that any person or corporation furnishing such
29 materials or rendering such services may maintain an action to
30 recover for the same against the obligor in the undertaking, as

1 though such person or corporation was named therein, provided
2 that the action is brought within one year after the time the
3 cause of action accrued and without prejudice to any other
4 rights or remedies available pursuant to statute or law. Nothing
5 in this section shall be construed to limit the power of the
6 commission to construct, repair or improve any port facility,
7 port-related project, property or project, or portion thereof,
8 of the commission, or any addition, betterment or extension
9 thereto, directly by the officers and employees of the
10 commission. Nothing in this section or in any other law of this
11 Commonwealth shall apply to a port facility, port-related
12 project or recreation project developed under section 5.1.

13 (b) Supplies and materials.--All supplies and materials
14 costing \$10,000 or more which are to be acquired directly by the
15 commission shall not be purchased unless the commission has
16 published notice[, at least ten days before the award of any
17 contract or the making of any purchase, in a newspaper of
18 general circulation within the port district and in the
19 Pennsylvania Bulletin] according to the provisions of 62 Pa.C.S.
20 (relating to procurement). The commission shall accept the
21 lowest bid or bids from a responsible bidder, provided that the
22 kind and quality of materials are equal. The commission shall
23 have the right to reject any or all bids or select a single item
24 from any bid. The provisions of this subsection shall not apply
25 to the purchase of any supplies and materials which are unique
26 and which cannot be obtained in the open market. Nothing in this
27 section or in any other law of this Commonwealth shall apply to
28 a port facility, port-related project or recreation project
29 developed under section 5.1.

30 (c) Exception.--Nothing in this section or in any other law

1 of this Commonwealth shall preclude the negotiation and
2 execution of contracts for management, licensing or leasing of
3 port facilities, port-related projects or any part thereof by
4 the commission upon the approval of a majority of the members of
5 the board. Notice and public advertisement provisions of this
6 section for the purchase of supplies and materials may be waived
7 whenever the commission determines that an emergency exists and
8 that such supplies and materials must be purchased by the
9 commission immediately. The exception provided for in this
10 subsection shall not apply to a port facility, port-related
11 project or recreation project under section 5.1.

12 (d) Professional services.--Nothing in this section or any
13 other law shall require the commission to competitively bid
14 legal, accounting, architectural design, engineering,
15 concession, construction management or other professional
16 services required by the commission, provided that no contract,
17 other than a contract relating to a port facility, port-related
18 project or recreation project developed under section 5.1, shall
19 be executed by or on behalf of the commission for such services
20 without first having advertised [in a newspaper of general
21 circulation and in the Pennsylvania Bulletin a request for
22 proposals for such services] according to the provisions of 62
23 Pa.C.S.

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