
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

SENATOR TILGHMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, NOVEMBER 20, 2000

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:

1 * * *

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

14 * * *

15 Section 2. The act is amended by adding a section to read:
16 Section 5.1. Economic development projects.

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

1 facility, port-related project or recreation project under this
2 section shall be limited obligations of the commission payable
3 solely out of any revenues received by the commission with
4 respect to the port facility, port-related project or recreation
5 project, including, but not limited to, the payments received
6 from the third party under this section, and the interest of the
7 commission in the port facility, port-related project or
8 recreation project, if any. The provisions of sections 5(b)(23),
9 7(c) and ~~11(e)~~ 11(A) shall not apply to a port facility, port- <—
10 related project or recreation project developed under this
11 section.

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

14 Section 7. Rights and remedies of obligees.

15 * * *

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

1 sell, assign, mortgage or otherwise dispose of any assets of
2 whatever kind or character belonging to the commission.

3 * * *

4 Section 11. Contracts and purchases.

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

1 materials or rendering such services may maintain an action to
2 recover for the same against the obligor in the undertaking, as
3 though such person or corporation was named therein, provided
4 that the action is brought within one year after the time the
5 cause of action accrued and without prejudice to any other
6 rights or remedies available pursuant to statute or law. Nothing
7 in this section shall be construed to limit the power of the
8 commission to construct, repair or improve any port facility,
9 port-related project, property or project, or portion thereof,
10 of the commission, or any addition, betterment or extension
11 thereto, directly by the officers and employees of the
12 commission. Nothing in this section or in any other law of this
13 Commonwealth WITH RESPECT TO CONSTRUCTION, RECONSTRUCTION, <—
14 REPAIRS OR WORK OF ANY NATURE MADE BY THE COMMISSION DONE BY A <—
15 COMMONWEALTH OR GOVERNMENT AGENCY shall apply to a port
16 facility, port-related project or recreation project developed
17 under section 5.1. HOWEVER, A PORT FACILITY, PORT-RELATED <—
18 PROJECT OR RECREATION PROJECT UNDERTAKEN UNDER SECTION 5.1 SHALL
19 BE SUBJECT TO ALL LAWS GOVERNING PRIVATE CONSTRUCTION
20 ACTIVITIES.

21 (b) Supplies and materials.--All supplies and materials
22 costing \$10,000 or more which are to be acquired directly by the
23 commission shall not be purchased unless the commission has
24 published notice[, at least ten days before the award of any
25 contract or the making of any purchase, in a newspaper of
26 general circulation within the port district and in the
27 Pennsylvania Bulletin] according to the provisions of 62 Pa.C.S.
28 (relating to procurement). The commission shall accept the
29 lowest bid or bids from a responsible bidder, provided that the
30 kind and quality of materials are equal. The commission shall

1 have the right to reject any or all bids or select a single item
2 from any bid. The provisions of this subsection shall not apply
3 to the purchase of any supplies and materials which are unique
4 and which cannot be obtained in the open market. Nothing in this
5 section or in any other law of this Commonwealth WITH RESPECT TO <—
6 THE PURCHASE OF SUPPLIES AND MATERIALS shall apply to a port
7 facility, port-related project or recreation project developed
8 under section 5.1.

9 (c) Exception.--Nothing in this section or in any other law
10 of this Commonwealth shall preclude the negotiation and
11 execution of contracts for management, licensing or leasing of
12 port facilities, port-related projects or any part thereof by
13 the commission upon the approval of a majority of the members of
14 the board. Notice and public advertisement provisions of this
15 section for the purchase of supplies and materials may be waived
16 whenever the commission determines that an emergency exists and
17 that such supplies and materials must be purchased by the
18 commission immediately[.] ~~The exception provided for in this~~ <—

19 ~~subsection shall not apply to a port facility, port related~~
20 ~~project or recreation project under section 5.1. OR WHENEVER THE~~ <—
21 CONTRACT INVOLVES A PORT FACILITY, PORT-RELATED PROJECT OR
22 RECREATIONAL PROJECT UNDER SECTION 5.1.

23 (d) Professional services.--Nothing in this section or any
24 other law shall require the commission to competitively bid
25 legal, accounting, architectural design, engineering,
26 concession, construction management or other professional
27 services required by the commission, provided that no contract,
28 other than a contract relating to a port facility, port-related
29 project or recreation project developed under section 5.1, shall
30 be executed by or on behalf of the commission for such services

1 without first having advertised [in a newspaper of general
2 circulation and in the Pennsylvania Bulletin a request for
3 proposals for such services] according to the provisions of 62
4 Pa.C.S.

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