

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1158 Session of  
2007

INTRODUCED BY MADIGAN, STOUT, SCARNATI, PILEGGI, RAFFERTY,  
ERICKSON, D. WHITE, M. WHITE, WAUGH, ARMSTRONG, WASHINGTON,  
RHOADES, WONDERLING, REGOLA AND CORMAN, NOVEMBER 13, 2007

REFERRED TO TRANSPORTATION, NOVEMBER 13, 2007

AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania  
2 Consolidated Statutes, providing for transportation  
3 infrastructure partnership and development.

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

6 Section 1. Title 74 of the Pennsylvania Consolidated  
7 Statutes is amended by adding a part to read:

8 PART V

9 TRANSPORTATION INFRASTRUCTURE

10 Chapter

11 91. Partnership and Development

12 CHAPTER 91

13 PARTNERSHIP AND DEVELOPMENT

14 Sec.

15 9101. Scope of chapter.

16 9102. Findings and declaration of policy.

17 9103. Definitions.

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11 9114. Pennsylvania Transportation Development Trust Fund.  
12 9115. Regional mobility account, etc.  
13 9116. Regional mobility authority.  
14 9117. Turnpike lease restricted.  
15 § 9101. Scope of chapter.  
16 This chapter relates to transportation infrastructure  
17 partnership and development.  
18 § 9102. Findings and declaration of policy.  
19 The General Assembly finds, determines and declares as  
20 follows:  
21 (1) There is urgent public need to reduce congestion,  
22 increase capacity, improve safety and enhance economic  
23 efficiency of transportation facilities throughout this  
24 Commonwealth.  
25 (2) The Commonwealth has limited resources to fund the  
26 maintenance and expansion of its transportation facilities.  
27 (3) To ensure that the needs of the public are  
28 adequately addressed, alternative funding mechanisms and  
29 strategies must be developed to supplement existing public  
30 revenue sources.

1       (4) Public entities should be authorized to enter into  
2       transportation development agreements with private entities,  
3       other public entities or partnerships of such entities in  
4       order to accelerate the cost-effective delivery of improved  
5       transportation facilities throughout this Commonwealth.

6   § 9103. Definitions.

7       The following words and phrases when used in this chapter  
8       shall have the meanings given to them in this section unless the  
9       context clearly indicates otherwise:

10      "Affected local jurisdiction." A county, city, township,  
11      borough, incorporated town, local planning organization,  
12      regional planning organization, metropolitan transportation  
13      authority or regional mobility authority within whose  
14      jurisdictional boundaries all or a portion of a qualifying  
15      transportation project is located, or which is or will be  
16      directly affected by the project.

17      "Approving body." In the case of a proposal subject to State  
18      Transportation Commission review and approval under section  
19      9104(a) (relating to transportation development agreements), the  
20      State Transportation Commission and the proprietary public  
21      entity. In the case of a proposal not subject to State  
22      Transportation Commission approval under section 9104(a), the  
23      proprietary public entity.

24      "Authorized development entity." A private entity, another  
25      public entity or any partnership of the entities authorized by  
26      the approving body or bodies to assume responsibility for the  
27      use of or control, in whole or in part, of a transportation  
28      facility from a proprietary public entity.

29      "Department." The Department of Transportation of the  
30      Commonwealth.

1 "Design build." The mode of infrastructure development  
2 whereby the contractor is responsible for both the design and  
3 construction of a qualifying transportation project.

4 "Develop" or "development." The term includes, but is not  
5 limited to, the acts or functions of planning, designing,  
6 financing, constructing, purchasing, installing, adding,  
7 extending or other activities relating to the improvement of a  
8 transportation facility.

9 "Fund." The Pennsylvania Transportation Development Trust  
10 Fund established under section 9114 (relating to Pennsylvania  
11 Transportation Development Trust Fund).

12 "Intergovernmental Cooperation Act." 53 Pa.C.S. Pt. III  
13 Subpt. D (relating to area government and intergovernmental  
14 cooperation).

15 "Local governmental entity." A unit of government with less  
16 than Statewide jurisdiction, or any officially designated public  
17 agency or authority of the unit of government, that has the  
18 responsibility for planning, construction, operation or  
19 maintenance of or jurisdiction over a transportation facility.  
20 The term includes, but is not limited to, a county, city,  
21 township, borough, incorporated town, municipal authority, local  
22 or regional planning organization, metropolitan transportation  
23 authority, regional mobility authority or other political  
24 subdivision or governmental entity created with less than  
25 Statewide jurisdiction, or any combination of the entities  
26 acting pursuant to 53 Pa.C.S. Pt. III Subpt. D (relating to area  
27 government and intergovernmental cooperation) or a similar  
28 statute.

29 "Local planning organization." An entity whose jurisdiction  
30 does not exceed the county in which it is located, and which is

charged with transportation planning responsibilities in the area in which a qualifying transportation project is located.

"Material default." Failure of an authorized development entity or entities to perform any duties under a transportation development agreement which jeopardizes delivery of adequate service to the public and remains unsatisfied after a reasonable period of time and after the authorized development entity or entities has received written notice from the approving body or bodies of the failure.

"Maximum rate of return." The negotiated maximum rate of return a private entity can receive as an authorized development entity from the operating and nonoperating revenues of a transportation facility pursuant to a transportation development agreement, including any incidental receipts and other income derived from the transportation facility covered by the agreement.

"Municipality Authorities Act." 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

"Operate" or "operation." Includes, but is not limited to, the acts or functions of managing, controlling, maintaining, repairing, conducting financial proceedings and other day-to-day activities of an enterprise.

"Partnership." An organization structured as a partnership or joint venture and comprised of any combination of private entities or public entities or both.

"Private entity." A natural person, sole proprietorship, corporation, company, association, syndicate, partnership, limited liability company, business trust, public benefit corporation, nonprofit entity or any other entity not specifically listed in this definition entering into a

transportation development agreement with a proprietary public entity for a qualifying transportation project.

"Proprietary public entity." The public entity that owns the proposed or existing transportation facility subject to a transportation development agreement.

"Public entity." The Commonwealth or any department, commission, authority or agency thereof or any local government entity. The term shall specifically include the State Transportation Commission, the Department of Transportation and the Pennsylvania Turnpike Commission. For purposes of this chapter, the term does not include the General Assembly and its members, officers or agencies or any court or other office or agency of the Pennsylvania judicial system.

"Qualifying transportation project." A proposed or existing undertaking by an authorized development entity or entities for the development or operation of a transportation facility totally or partially within this Commonwealth.

"Regional mobility account." A separate account of the Commonwealth within the Pennsylvania Transportation Development Trust Fund, under the custody of the State Treasurer, into which transportation development revenues or other funds, including surcharges imposed by the Commonwealth, may be deposited for operation or development of regional transportation facilities.

"Regional mobility authority." An authority or similar local government entity created pursuant to 53 Pa.C.S. Pt. III Subpt. D (relating to area government and intergovernmental cooperation), 53 Pa.C.S. Ch. 56 (relating to municipal authorities) or other Commonwealth statute and recognized under this chapter and regulations issued by the State Transportation Commission for the purpose of promoting regional transportation

1 development.

2 "Regional planning organization." An entity with multicounty  
3 jurisdiction and designated under Federal or State law with  
4 transportation planning responsibilities in the region in which  
5 a qualifying transportation project is located.

6 "Request for proposals." All materials and documents  
7 prepared by or on behalf of a public entity to solicit proposals  
8 from public or private entities to enter into a transportation  
9 development agreement for a qualifying transportation project as  
10 set forth in this chapter.

11 "Right-to-Know Law." The act of June 21, 1957 (P.L.390,  
12 No.212), referred to as the Right-to-Know Law.

13 "Separations Act." The act of May 1, 1913 (P.L.155, No.104),  
14 entitled "An act regulating the letting of certain contracts for  
15 the erection, construction, and alteration of public buildings."

16 "State Adverse Interest Act." The act of July 19, 1957  
17 (P.L.1017, No.451), known as the State Adverse Interest Act.

18 "State advisor." An entity as defined in section 2 of the  
19 act of July 19, 1957 (P.L.1017, No.451), known as the State  
20 Adverse Interest Act.

21 "State consultant." An entity as defined in section 2 of the  
22 act of July 19, 1957 (P.L.1017, No.451), known as the State  
23 Adverse Interest Act.

24 "Transportation Commission." The State Transportation  
25 Commission of the Commonwealth established under section 468 of  
26 the act of April 9, 1929 (P.L.177, No.175), known as The  
27 Administrative Code of 1929.

28 "Transportation development agreement." A lease, license,  
29 franchise, easement, concession or other binding agreement  
30 transferring rights for the use or control, in whole or in part,

1 of a transportation facility by a proprietary public entity to  
2 an authorized development entity or entities for a definite term  
3 during which the authorized development entity or entities will  
4 provide transportation-related services, including, but not  
5 limited to, any one or more of the following: operations and  
6 maintenance, revenue collection, toll collection enforcement,  
7 design, construction, development and other activities with  
8 respect to existing or new transportation facilities that  
9 enhance throughput, reduce congestion, improve safety or  
10 otherwise manage or improve a transportation facility in return  
11 for the right to receive all or a portion of the revenues of the  
12 transportation facility.

13 "Transportation development revenues." Money generated from  
14 or received in support of the development or operation of a  
15 qualifying transportation project, including, but not limited  
16 to, user fees, service payments, surcharges, lease payments,  
17 governmental appropriations or grants, proceeds of debt or  
18 equity issuance, income from operations and earnings on  
19 investments.

20 "Transportation facility." A road, bridge, tunnel, overpass,  
21 ferry, busway, guideway, other public transportation facility,  
22 vehicle parking facility, port facility, multimodal  
23 transportation facility, airport, station, hub, terminal or  
24 similar facility used for the transportation of persons, animals  
25 or goods, together with any buildings, structures, parking  
26 areas, appurtenances and other property needed to operate the  
27 facility. The term includes any improvements or substantial  
28 enhancements thereto.

29 "User fees." Rates, tolls, fees or other charges imposed or  
30 collected by an authorized development entity or entities for



use of all or a portion of a transportation facility pursuant to a transportation development agreement.

§ 9104. Transportation development agreements.

(a) Authorization and approval.--Subject to the provisions of this chapter and the approval of its governing body, a proprietary public entity has full authority to enter into a transportation development agreement with an authorized development entity or entities governing the development or operation of all or any portion of a transportation facility, except that, if the transportation development agreement results in the proprietary public entity disposing of or relinquishing its control of a transportation facility or pertains to a transportation facility that receives Commonwealth funding, then the transportation development agreement must also be reviewed and approved by the Transportation Commission before the proprietary public entity can enter into the agreement.

(b) Project activities authorized.--Subject to the requirements of this chapter, a transportation development agreement may provide for the authorized development entity or entities to be partially or entirely responsible for any one or more of the following activities: planning, design, development, construction, reconstruction, improvement, extension or expansion, operation, repair, maintenance, management, revenue collection or financing of a transportation facility.

(c) Repositories for materials.--The Transportation Commission shall serve as the primary repository for all materials relating to the review and approval of transportation development agreements that involve transportation facilities that receive funding from the Commonwealth or result in the proprietary public entity disposing of or relinquishing its

1 control over the transportation facilities. Otherwise, the  
2 proprietary public entity shall serve as the repository for  
3 materials relating to the review of transportation development  
4 agreements which do not require the approval of the  
5 Transportation Commission.

6 § 9105. Proposals for transportation development agreements.

7 (a) Solicited proposals.--Before entering into a  
8 transportation development agreement, the proprietary public  
9 entity must issue a request for proposals as set forth in this  
10 subsection. If the proposal being requested is subject to  
11 Transportation Commission review and approval pursuant to  
12 section 9104(a) (relating to transportation development  
13 agreements), the request for proposals must be authorized and  
14 issued jointly by the proprietary public entity and the  
15 Transportation Commission. Any request for proposals shall use a  
16 competitive procurement process that selects the authorized  
17 development entity whose proposal provides the best value for  
18 the proprietary public entity and for the Commonwealth. Notice  
19 of any such request for proposals shall be published in the  
20 Pennsylvania Bulletin and posted or published in whatever other  
21 medium is regularly used by the proprietary public entity for  
22 procurement matters. A request for proposals issued under this  
23 subsection shall include the following:

24 (1) The minimum scope and content of the information to  
25 be provided by the respondent.

26 (2) The factors or criteria that will be used by the  
27 approving body or bodies in evaluating the proposals and the  
28 deadline for submitting the proposal.

29 (3) A statement concerning the scope and location of the  
30 proposed project.

1       (4) A statement concerning any other information that  
2       the approving body or bodies may consider in evaluating the  
3       proposals.

4       (5) A statement indicating that if clarification is  
5       needed in the evaluation of the proposals, the proprietary  
6       public entity, together with the Transportation Commission if  
7       its approval is required, may negotiate specific provisions  
8       with the prospective authorized development entity that  
9       submitted the proposal pursuant to the request for proposals.

10      (b) Unsolicited proposals.--A proprietary public entity may  
11      entertain and accept for review unsolicited proposals submitted  
12      by public or private entities for a qualifying transportation  
13      project. To the extent a proposal is subject to Transportation  
14      Commission review and approval pursuant to section 9104(a), the  
15      proposal shall also be submitted to the Transportation  
16      Commission. For proposals not subject to Transportation  
17      Commission approval, proprietary public entities may establish  
18      rules and procedures for accepting unsolicited proposals and may  
19      set forth the information required to be included in unsolicited  
20      proposals submitted by public or private entities. The  
21      Transportation Commission shall be responsible for establishing  
22      rules and procedures for unsolicited proposals subject to its  
23      approval, which shall include a review and response period not  
24      exceeding 135 days from receipt of the unsolicited proposal for  
25      any proposal with an estimated cost of construction greater than  
26      \$50,000,000. If an unsolicited proposal is deemed to be in  
27      compliance with the rules and procedures as established by the  
28      appropriate approving body and if the public entity or entities  
29      so desire to pursue the proposed qualifying transportation  
30      project, the proprietary public entity, jointly with the

Transportation Commission if its approval is required, must publish a request for and receive competing proposals in accordance with subsection (a).

(c) Discussions and negotiations with proposing entities.--A proprietary public entity, and the Transportation Commission where its approval is required, may conduct discussions and negotiations with public or private entities which have submitted solicited or unsolicited proposals for the purpose of clarification to assure full understanding of the proposals or the responsiveness of solicited proposals to solicitation requirements.

(d) Design build development; Separations Act inapplicable.--Notwithstanding any other provision of law to the contrary:

(1) any proposal made pursuant to this chapter may provide for the design build mode of infrastructure development; and

(2) in no event shall an authorized development entity or entities be subject to the requirements of the Separations Act in connection with a transportation development agreement authorized pursuant to this chapter.

(e) Federal credit assistance.--The approving body or bodies and affected local jurisdictions may apply for, execute or endorse applications by prospective authorized development entities to obtain Federal credit assistance for a qualifying transportation project.

(f) Adverse interests of proposing private entity.--

(1) Except as provided in paragraph (2), a private entity which is a State advisor or State consultant for the Transportation Commission, the department, the Pennsylvania

Turnpike Commission or any other proprietary public entity shall not be deemed to be in violation of the State Adverse Interest Act if the private entity:

(i) prepares or submits a proposal or a response to a request for proposals under this section;

(ii) negotiates or enters into a transportation development agreement; or

(iii) engages in other activities in furtherance of the provisions or purposes of this chapter.

(2) A private entity which submits an unsolicited proposal or a response to a request for proposals shall be prohibited from providing advice to the Transportation Commission, the department, the Pennsylvania Turnpike Commission or a proprietary public entity on its proposal, any competing proposal or a request for proposals for which it has submitted a response.

(g) Fees.--The approving body or bodies may require that a nonrefundable fee accompany any solicited or unsolicited proposal submitted pursuant to this section to cover all or part of the costs of processing, reviewing and evaluating the proposal.

(h) Confidentiality of records.--To encourage public and private entities to submit proposals under subsections (a) and (b), the following information shall be considered confidential, and shall not be considered a public record subject to disclosure, public inspection or copying under the Right-to-Know Law, or any other act, until a final transportation development agreement for a proposed qualifying transportation project is entered into:

(1) All or part of a proposal, whether solicited or

1 unsolicited, submitted by a public or private entity or any  
2 partnership of the entities for a proposed qualifying  
3 transportation project, except information regarding the  
4 scope, location and limits of the project and information  
5 pertaining to a public or private entity's qualifications,  
6 experience, technical competence and capability to develop  
7 the project.

8 (2) Information and records created during any  
9 discussions or negotiations arising from the process as  
10 described in subsection (c).

11 (i) Disclosure of records.--Notwithstanding subsection (h),  
12 after a transportation development agreement has been entered  
13 into, the entire selected proposal shall be considered a public  
14 record for purposes of disclosure under the Right-to-Know Law.  
15 Promptly after a transportation development agreement has been  
16 entered into, the approving body or bodies shall also make  
17 available for inspection and copying by the public a summary of  
18 the terms of the selected proposal and a written explanation of  
19 the basis upon which the selection was made. Proprietary  
20 information contained in proposals not selected and records of  
21 negotiations with private entities not selected shall continue  
22 to be exempt from public disclosure.

23 § 9106. Review and selection of proposals.

24 (a) Timing of review.--For proposals subject to its  
25 approval, the Transportation Commission by published regulations  
26 shall promulgate procedures and guidelines that establish the  
27 process for the review and selection of a proposal submitted  
28 pursuant to section 9105(a) and (b) (relating to proposals for  
29 transportation development agreements). The guidelines shall  
30 establish:

1       (1) a specific schedule for the timing of the review of  
2       the proposals by the approving body or bodies designed with a  
3       high priority placed upon a review schedule requiring less  
4       than 135 days;

5       (2) a process for alteration of that schedule if the  
6       approving body or bodies deem that changes are necessary  
7       because of the scope or complexity of proposals received; and

8       (3) the type and amount of information that is necessary  
9       for adequate review of proposals. A proprietary public entity  
10       shall promulgate its own procedures and guidelines for the  
11       review and selection of proposals which do not require  
12       Transportation Commission approval.

13       (b) Asset valuation.--In evaluating any submitted proposal,  
14       the approving body or bodies may rely on internal reports  
15       prepared by staff familiar with the operation of similar  
16       transportation facilities or may engage the services of the  
17       private consultants, engineers and other experts as the  
18       approving body or bodies determine are necessary or desirable  
19       for the purposes of performing the evaluations. As part of each  
20       evaluation of any submitted proposal, the approving body or  
21       bodies shall be required to obtain a financial and valuation  
22       assessment with respect to the proposed qualifying  
23       transportation project from a qualified independent advisor with  
24       experience and expertise with similar transportation facilities.

25       (c) Factors for review and selection of proposals.--The  
26       appropriate approving body or bodies may consider the following  
27       factors in reviewing and selecting a proposal to enter into a  
28       transportation development agreement:

29       (1) the ability of the qualifying transportation project  
30       to improve safety, reduce congestion, increase capacity and

1 promote economic growth;

2 (2) the compatibility of the proposal with existing  
3 local or regional land use plans or the commitment of local  
4 communities to approve plans in preparation for the proposed  
5 project;

6 (3) the proposed cost of and financial plan for the  
7 qualifying transportation project;

8 (4) the general reputation, qualifications, industry  
9 experience and financial capacity of the entity or entities  
10 submitting the proposal;

11 (5) the proposed design, operation and feasibility of  
12 the qualifying transportation project;

13 (6) comments from local citizens and affected local  
14 jurisdictions;

15 (7) benefits to the public;

16 (8) the safety record of the entity or entities  
17 submitting the proposal; and

18 (9) other criteria that the approving body or bodies  
19 deem appropriate.

20 § 9107. Affected local jurisdictions.

21 The Transportation Commission by published regulations shall  
22 promulgate procedures and guidelines that establish a process in  
23 which affected local jurisdictions receive notice of a proposed  
24 qualifying transportation project and have an opportunity to  
25 provide input regarding the project before a transportation  
26 development agreement is executed. For proposed qualifying  
27 transportation projects which do not require approval of the  
28 Transportation Commission under section 9104(a) (relating to  
29 transportation development agreements), the proprietary public  
30 entity shall promulgate its own procedures and guidelines by



which affected local jurisdictions receive notice of a proposed  
qualifying transportation project and have an opportunity to  
provide input prior to the execution of a transportation  
development agreement.

§ 9108. Terms and conditions of transportation development  
agreements.

(a) Proprietary public entity and authorized development  
entity negotiations.--Except as otherwise expressly provided in  
section 9105 (relating to proposals for transportation  
development agreements) and this section, a proprietary public  
entity may enter into a transportation development agreement  
with an authorized development entity or entities without regard  
to the provisions of 62 Pa.C.S. Pt. 1 (relating to Commonwealth  
Procurement Code). The proprietary public entity and authorized  
development entity or entities are expressly authorized to  
negotiate the provisions of a transportation development  
agreement.

(b) Required provisions.--A transportation development  
agreement entered into under this chapter shall provide for the  
following:

(1) a process by which the authorized development entity  
or entities implements, sets and adjusts any user fees on any  
transportation facility;

(2) the methodologies, indices or other factors for the  
setting and adjusting of user fees;

(3) the original term of the transportation development  
agreement, which may not exceed 50 years;

(4) dates for the beginning and completion of  
construction of or improvements to the qualifying  
transportation project;

1       (5) the transportation facility acquired or constructed  
2       pursuant to a transportation development agreement is public  
3       property that is leased to the authorized development entity  
4       and belongs to the proprietary public entity;

5       (6) that upon termination of the transportation  
6       development agreement, the transportation facility must be in  
7       a state of proper maintenance and repair and shall be  
8       returned to the proprietary public entity in satisfactory  
9       condition at no further cost to the public entity;

10       (7) maintenance of a policy or policies of liability  
11       insurance, copies of which shall be filed with the  
12       proprietary public entity accompanied by proofs of coverage,  
13       or self insurance, each in form and amount satisfactory to  
14       the proprietary public entity and reasonably sufficient to  
15       insure coverage of tort liability to the public and employees  
16       and to enable the continued operation of the transportation  
17       facility; and

18       (8) that the authorized development entity shall comply  
19       with the act of August 15, 1961 (P.L.987, No.442), known as  
20       the Pennsylvania Prevailing Wage Act, and 62 Pa.C.S. § 107  
21       (relating to reciprocal limitations).

22       § 9109. Material default; remedies.

23       (a) General rule.--Upon the occurrence and during the  
24       continuation of a material default of a transportation  
25       development agreement by an authorized development entity or  
26       entities, the approving body or bodies may:

27       (1) Elect to take over the transportation facility which  
28       is the subject of the transportation development agreement,  
29       including the succession of all right, title and interest in  
30       the transportation facility, subject to any liens on revenues

1 previously granted by the authorized development entity or  
2 entities.

3 (2) Terminate the transportation development agreement  
4 and exercise any other rights and remedies that may be  
5 available.

6 (b) Takeover.--In the event that the approving body or  
7 bodies elect to take over a transportation facility under  
8 subsection (a), the approving body or bodies:

9 (1) Shall collect and pay any revenues that are subject  
10 to lien to satisfy any obligation.

11 (2) May develop and operate the transportation facility,  
12 impose user fees for the use of the transportation facility  
13 and comply with any service contracts.

14 (3) May solicit proposals for the maintenance and  
15 operation of the transportation facility under section 9105  
16 (relating to proposals for transportation development  
17 agreements).

18 § 9110. Financing qualifying transportation projects.

19 (a) User fees.--

20 (1) Each transportation development agreement shall  
21 authorize the authorized development entity or entities to  
22 impose user fees for use of the transportation facility.  
23 Unless specifically prohibited in the transportation  
24 development agreement, the authorization shall permit the  
25 imposition of user fees on transportation facilities not  
26 currently subject to user fees, subject to compliance with  
27 applicable Federal and State law and approval by the  
28 Transportation Commission.

29 (2) The transportation development agreement may  
30 authorize the authorized development entity or entities to

1 collect tolls or user fees through both conventional methods  
2 and nonconventional methods, including, but not limited to,  
3 automatic vehicle identification systems, electronic toll  
4 collection systems and, to the extent permitted by law,  
5 video-based toll-collection enforcement.

6 (3) A maximum rate of return on investment shall be  
7 negotiated by the proprietary public entity and the  
8 authorized development entity or entities and stated in the  
9 transportation development agreement.

10 (4) After expiration of the original term of the  
11 transportation development agreement, the proprietary public  
12 entity may continue to charge user fees for the use of the  
13 transportation facility.

14 (5) User fees under a transportation development  
15 agreement shall generally be uniform for similar persons and  
16 vehicles traveling under like conditions, except as may be  
17 required to mitigate congestion on and preserve capacity of  
18 the transportation facility which is the subject of the  
19 transportation development agreement.

20 (b) Bonding authority.--A proprietary public entity or  
21 authorized development entity or entities may authorize the  
22 issuance of debt, equity or other securities or obligations to  
23 pay all or part of the costs of a qualifying transportation  
24 project and may secure any such financing with a pledge of,  
25 security interest in or lien on any of the user fees charged and  
26 collected for the use of the transportation facility. However,  
27 any bonds, debt, other securities or other financing issued for  
28 the purposes of this chapter shall be limited obligations of the  
29 proprietary public entity or authorized development entity or  
30 entities and shall not be considered to constitute a debt of the

Commonwealth or any political subdivision thereof or a pledge of the full faith and credit of the Commonwealth or any political subdivision thereof.

(c) Limited recourse bonds backed by pledge of portion of Motor License Fund revenues.--(Reserved).

§ 9111. Power of eminent domain.

At the request of an authorized development entity or entities, the proprietary public entity or an affected local jurisdiction otherwise possessing the power of eminent domain may exercise that power for the purpose of acquiring any real property or interests therein deemed necessary to advance the development or operation of a qualifying transportation project. Any amounts payable in any such eminent domain proceeding may be paid by the proprietary public entity or the authorized development entity or entities.

§ 9112. Police powers; motor vehicle laws.

(a) Powers and jurisdiction.--All law enforcement officers of the Commonwealth and each affected local jurisdiction shall have the same powers and jurisdiction within the limits of a qualifying transportation project as they have in their respective areas of jurisdiction, and law enforcement officers shall have access to the qualifying transportation project at any time for the purpose of exercising their law enforcement powers and jurisdiction.

(b) Enforcement of traffic laws.--To the extent the qualifying transportation project includes a highway, bridge, tunnel, overpass or similar transportation facility for motor vehicles, the traffic and motor vehicle laws of this Commonwealth or, if applicable, any local jurisdiction shall be the same as those applying to conduct on similar transportation

1 facilities in the Commonwealth or the local jurisdiction.

2 (c) Payment of law enforcement costs.--The authorized  
3 development entity or entities shall be responsible for the  
4 payment of all costs associated with the provision of law  
5 enforcement services pursuant to subsections (a) and (b) within  
6 the limits of a qualifying transportation project.

7 (d) Fines.--Fines imposed by law enforcement officers for  
8 violations occurring within the limits of a qualifying  
9 transportation project shall be imposed, collected, distributed  
10 and governed as otherwise provided by applicable law.

11 § 9113. Taxation of authorized development entity or entities.

12 (a) General rule.--To the extent that revenues or user fees  
13 received by an authorized development entity or entities are  
14 subject to any tax imposed by a political subdivision prior to  
15 the effective date of this chapter, the revenues or user fees  
16 shall continue to be subject to the tax and to future increases  
17 in the rate of the tax.

18 (b) New taxation barred.--After the effective date of this  
19 chapter, no new tax shall be imposed by a political subdivision  
20 on the revenues or user fees received by an authorized  
21 development entity or entities.

22 (c) Realty transfer tax.--No transportation development  
23 agreement, lease, concession, franchise or other contract  
24 involving real property of a qualifying transportation project  
25 shall be subject to any Commonwealth or local realty transfer  
26 tax imposed under the act of December 31, 1965 (P.L.1257,  
27 No.511), known as The Local Tax Enabling Act, the act of March  
28 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, or  
29 a successor statute.

30 (d) Property.--Property used in connection with a qualifying

transportation project shall be considered public property and is exempt from ad valorem property taxes and special assessments levied against property by the Commonwealth or any political subdivision.

§ 9114. Pennsylvania Transportation Development Trust Fund.

(a) Establishment of fund.--The Pennsylvania Transportation Development Trust Fund is hereby established separate and distinct from the General Fund of the Commonwealth. Interest earned on moneys held in the fund shall be credited to the fund. The Transportation Commission shall hold, administer and manage the fund, and expenses of administering the fund shall be paid from money in the fund.

(b) Separate accounts.--Within the fund, separate accounts and subaccounts may be established.

(c) Deposits.--Subject to the provisions of a transportation development agreement, the following moneys may be deposited into the fund:

(1) Payments received from an authorized development entity or entities under a transportation development agreement.

(2) Revenues received from a qualifying transportation project pursuant to a transportation development agreement with an authorized development entity or entities.

(3) Excess earnings over the negotiated maximum rate of return for an authorized development entity or entities in a transportation development agreement.

(4) Surcharges or other service fees or user fees which may be imposed or levied by the Commonwealth on passenger or commercial travel.

(5) Appropriations, if any, made by the General

1 Assembly.

2 (6) Interest, premiums, gains or other earnings on the  
3 fund.

4 (7) Any other moneys from any sources, public or  
5 private, that are done by donation, grant, contract, law or  
6 other means transferred, allocated or appropriated to the  
7 fund.

8 (d) Permitted uses.--

9 (1) The fund shall be a separate trust fund to be  
10 appropriated and used by the Transportation Commission, upon  
11 majority vote thereof, solely for the operation and  
12 development of transportation facilities wholly or partly  
13 within this Commonwealth. Included as a permitted use of fund  
14 moneys is the funding of regional mobility authorities  
15 designated by the Transportation Commission under section  
16 9115 (relating to regional mobility account, etc.).

17 (2) Money may not be transferred, assigned or otherwise  
18 removed from the fund except by the Transportation Commission  
19 and not by the General Assembly or any other agency,  
20 authority or other political subdivision of the Commonwealth.

21 (3) Money in the fund at the end of the fiscal year  
22 shall not revert to the General Fund.

23 § 9115. Regional mobility account, etc.

24 (Reserved).

25 § 9116. Regional mobility authority.

26 A regional mobility authority shall be eligible to receive  
27 transportation development revenues directly from the fund or  
28 from a regional mobility fund. An existing local governmental  
29 entity shall be eligible for designation as a regional mobility  
30 authority upon application to the Transportation Commission.



1   § 9117. Turnpike lease restricted.

2       The Pennsylvania Turnpike, its additions and lease properties  
3   may not be subject to a transfer of oversight responsibilities  
4   through a lease, sale or other agreement unless specific  
5   authority is granted through an act of law passed by a majority  
6   of members of the General Assembly. This section shall not  
7   restrict the ability of the Pennsylvania Turnpike Commission or  
8   the Transportation Commission to consider and approve  
9   partnership agreements which do not require a transfer of  
10   operational oversight from the Pennsylvania Turnpike Commission.

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