

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 3

Session of 2011

INTRODUCED BY GEIST, MCGEEHAN, AUMENT, BAKER, BENNINGHOFF, BOYD, CALTAGIRONE, CAUSER, CHRISTIANA, CLYMER, P. COSTA, CUTLER, DENLINGER, ELLIS, J. EVANS, EVERETT, FARRY, FLECK, GIBBONS, GILLESPIE, GINGRICH, GRELL, GROVE, HALUSKA, HARHAI, HARHART, HARPER, HARRIS, HESS, HICKERNELL, HORNAMAN, HUTCHINSON, KAUFFMAN, M. K. KELLER, W. KELLER, MAHER, MARSHALL, MARSICO, MILLER, MILNE, MUSTIO, OBERLANDER, PAYNE, PAYTON, PICKETT, PYLE, QUINN, RAPP, REED, REICHLEY, SAYLOR, SCHRODER, K. SMITH, SONNEY, STERN, STEVENSON, TALLMAN, TURZAI, VULAKOVICH, WATSON, EVANKOVICH, TRUITT, KILLION, HARKINS AND BARBIN, FEBRUARY 14, 2011

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, FEBRUARY 15, 2012

AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania  
2 Consolidated Statutes, providing for public-private  
3 transportation partnerships; and making a related repeal.

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. Public-Private Transportation Partnership

12 CHAPTER 91

13 PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP

1 Sec.  
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26 9124. Pennsylvania Turnpike Commission.  
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28 § 9101. Scope of chapter.  
29 This chapter relates to public-private transportation  
30 partnerships.



1 § 9102. Findings and declaration of policy.

2 (a) Legislative findings and declarations.--The General  
3 Assembly finds, determines and declares as follows:

4 (1) There is urgent public need to reduce congestion,  
5 increase capacity, improve safety and enhance economic  
6 efficiency of transportation facilities throughout this  
7 Commonwealth.

8 (2) The public entities have limited resources to fund  
9 the maintenance and expansion of their respective  
10 transportation facilities.

11 (3) To ensure the needs of the public are adequately  
12 addressed, alternative funding mechanisms and strategies must  
13 be developed to supplement existing public revenue sources.

14 (4) The imposition of user fees establishes an  
15 additional funding source for transportation infrastructure  
16 needs that spreads the costs across those who most benefit  
17 from the Commonwealth's system of roads, highways and  
18 bridges.

19 (5) The imposition of user fees and the development,  
20 operation, maintenance, construction and improvement of toll  
21 roads is a proprietary function which may be delegated to a  
22 private entity consistent with section 31 of Article III of  
23 the Constitution of Pennsylvania.

24 (6) Authorizing public entities to enter into  
25 transportation partnership agreements with private entities  
26 and other public entities for the development, operation and  
27 financing of transportation facilities can result in greater  
28 availability of transportation facilities to the public in a  
29 timely, efficient and less costly fashion, thereby serving  
30 the public safety and welfare.

1           (7) Assuring that public-private transportation projects  
2 are developed, operated and financed in a cost-effective  
3 manner is an important factor in promoting the health, safety  
4 and welfare of the citizens of this Commonwealth.

5 (b) Intent.--It is the intent of this chapter:

6           (1) To encourage private entities to invest in this  
7 Commonwealth by participating in the development, operation  
8 or financing of transportation facilities.

9           (2) To provide public entities and private entities with  
10 the authority and flexibility in contracting for the  
11 development, operation and financing of transportation  
12 facilities.

13           (3) To authorize public entities to contract with  
14 private and other public entities to provide transportation  
15 facilities and related services.

16 § 9103. Definitions.

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

20           "Account." The Public-Private Transportation Account.

21           "Board." The Public-Private Transportation Partnership  
22 Board.

23           "Department." The Department of Transportation of the  
24 Commonwealth.

25           "Development entity." An entity which is a party to a  
26 public-private transportation partnership agreement and which is  
27 any of the following:

28           (1) A private entity.

29           (2) A public entity, other than the public entity  
30 providing or improving its own transportation facilities.

1 "Electronic toll." A system of collecting tolls or charges  
2 which is capable of charging an account holder for the  
3 prescribed toll by electronic transmission of information. The  
4 term includes open road tolls, video tolls or other similar  
5 structural or technological enhancements pertaining to tolls.

6 "Offeror." A person that submits a proposal or a response in  
7 answer to a request for proposals or transportation projects.

8 "Private entity." A person, entity, group or organization  
9 that is not the Federal Government, the Commonwealth or a  
10 municipal authority.

11 "Proprietary public entity." A public entity which owns a  
12 public-private transportation project and which is a party to a  
13 public-private transportation partnership agreement.

14 ~~"Public entity." The Commonwealth or a municipal authority~~ ←

15 ~~"PUBLIC ENTITY." THE COMMONWEALTH, A MUNICIPAL AUTHORITY OR~~ ←  
16 ~~AN AUTHORITY CREATED BY STATUTE which owns a transportation~~  
17 ~~facility. The term does not include the General Assembly and its~~  
18 ~~members, officers or agencies or any court or other office or~~  
19 ~~agency of the Pennsylvania judicial system.~~

20 "Public-private transportation partnership agreement." A  
21 contract for a transportation project which transfers the rights  
22 for the use or control, in whole or in part, of a transportation  
23 facility by a public entity to a development entity for a  
24 definite term during which the development entity will provide  
25 the transportation project to the public entity in return for  
26 the right to receive all or a portion of the revenue generated  
27 from the use of the transportation facility, or other payment,  
28 such as the following transportation-related services:

29 (1) Operations and maintenance.

30 (2) Revenue collection.

1           (3) User fee collection or enforcement.

2           (4) Design.

3           (5) Construction.

4           (6) Development and other activities with respect to  
5 existing or new transportation facilities that enhance  
6 traffic throughput, reduce congestion, improve safety or  
7 otherwise manage or improve a transportation facility.

8           (7) Financing.

9           "Public-private transportation project." A transportation  
10 project undertaken by a development entity pursuant to a public-  
11 private transportation partnership agreement.

12           "REQUEST FOR TRANSPORTATION PROJECTS." A SOLICITED OR ←  
13 UNSOLICITED PLAN FOR A TRANSPORTATION PROJECT SUBMITTED TO THE  
14 BOARD BY A PUBLIC ENTITY.

15           "Responsible offeror." An offeror that has submitted a  
16 responsive proposal and that possesses the capability to fully  
17 perform the public-private transportation partnership agreement  
18 requirements in all respects and the integrity and reliability  
19 to assure good faith performance.

20           "Responsive proposal." A proposal that conforms in all  
21 material aspects to the requirements and criteria in the request  
22 for proposals.

23           ~~"Right to Know Law." The act of February 14, 2008 (P.L.6,~~ ←  
24 ~~No.3), known as the Right to Know Law.~~

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

27           "Transportation facility." A proposed or existing road,  
28 bridge, tunnel, overpass, ferry, busway, guideway, public  
29 transportation facility, vehicle parking facility, port  
30 facility, multimodal transportation facility, airport, station,

1 hub, terminal or similar facility used or to be used for the  
2 transportation of persons, animals or goods, together with any  
3 buildings, structures, parking areas, appurtenances, intelligent  
4 transportation systems and other property needed to operate OR ←  
5 RELATED TO THE OPERATION OF the transportation facility. The  
6 term includes any improvements or substantial enhancements or  
7 modifications to an existing transportation facility.

8 "Transportation project." An undertaking by a private entity  
9 or a public entity, other than the public entity providing or  
10 improving its own transportation facilities, to provide or  
11 improve a transportation facility or transportation-related  
12 service which is totally or partially located within this  
13 Commonwealth.

14 § 9104. Public-Private Transportation Partnership Board.

15 (a) Establishment.--There is established a board to be known  
16 as the Public-Private Transportation Partnership Board.

17 (b) Composition.--The board shall be composed of the  
18 following members:

19 (1) The Secretary of Transportation, who shall be the  
20 chairperson of the board, or a designee who shall be an  
21 employee of the department.

22 (2) The Secretary of the Budget or a designee who shall  
23 be an employee of the Office of the Budget.

24 (3) Four members appointed by the General Assembly under  
25 subsection (c).

26 (4) One member appointed by the Governor under  
27 subsection (d).

28 (c) Legislative appointments.--

29 (1) Appointments of members by the General Assembly  
30 shall be made as follows:

1           (i) One individual appointed by the President pro  
2 tempore of the Senate.

3           (ii) One individual appointed by the Minority Leader  
4 of the Senate.

5           (iii) One individual appointed by the Speaker of the  
6 House of Representatives.

7           (iv) One individual appointed by the Minority Leader  
8 of the House of Representatives.

9           (2) Legislative appointees shall serve at the pleasure  
10 of the appointing authority.

11          (3) Legislative appointees shall:

12           (i) Be ~~citizens~~ RESIDENTS of this Commonwealth, of ←  
13 mature judgment and broad experience.

14           (ii) Have expertise or substantial experience in one  
15 or more of the following areas:

16                   (A) Transportation.

17                   (B) Finance.

18                   (C) Law.

19                   (D) Land use and public planning.

20          (4) Legislative appointees may not hold any other  
21 position as an elected official or employee of the  
22 Commonwealth.

23          (d) Gubernatorial appointment.--A member appointed under  
24 subsection (b) (4):

25           (1) May not hold any other position as an elected  
26 official or employee of the Commonwealth.

27           (2) Shall have expertise or substantial experience in  
28 one or more of the following areas:

29                   (i) Transportation.

30                   (ii) Finance.





1 financial disclosure).

2 § 9105. Duties of board.

3 (a) Duties.--The board shall do all of the following:

4 (1) Meet as often as necessary but at least annually.

5 (2) Adopt guidelines establishing the procedure by which  
6 a public entity may submit a request for a transportation  
7 project or a private entity may submit an unsolicited plan  
8 for a transportation project to the board.

9 (3) Consult with persons affected by proposed  
10 transportation projects.

11 (4) Evaluate and, where the board finds that the  
12 requests or plans for transportation projects are in the best  
13 interests of the Commonwealth and a public entity, approve  
14 the requests or plans for transportation projects. The board  
15 shall approve a proposed transportation project by adopting a  
16 resolution. A COPY OF THE RESOLUTION SHALL BE DELIVERED TO ←  
17 THE CHAIRMAN AND MINORITY CHAIRMAN OF THE TRANSPORTATION  
18 COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY  
19 CHAIRMAN OF THE TRANSPORTATION COMMITTEE OF THE HOUSE OF  
20 REPRESENTATIVES.

21 (5) Submit an annual report to the General Assembly  
22 detailing all transportation projects evaluated and  
23 resolutions adopted.

24 (b) Actions.--Actions by the board are a determination of  
25 public policy and public interest and shall not be considered  
26 adjudications under 2 Pa.C.S. Chs. 5 Subch. A (relating to  
27 practice and procedure of Commonwealth agencies) and 7 Subch. A  
28 (relating to judicial review of Commonwealth agency action) and  
29 shall not be appealable to the department or a court of law.

30 (c) General Assembly.--The following shall apply:

1       (1) The General Assembly may, within ~~30~~ 20 calendar days ←  
2       or ~~12~~ 9 legislative days, whichever is longer, of the ←  
3       ~~adoption~~ DELIVERY of the resolution under subsection (a)(4), ←  
4       pass a concurrent resolution rescinding the approval of a  
5       transportation project if the transportation facility which  
6       is the subject of the transportation project is owned by the  
7       Commonwealth.

8       (2) If the General Assembly adopts the concurrent  
9       resolution within the time period under paragraph (1) by  
10       majority vote in both the Senate and the House of  
11       Representatives, the transportation project shall be deemed  
12       disapproved.

13       (3) If the General Assembly fails to adopt the  
14       concurrent resolution by majority vote in both the Senate and  
15       the House of Representatives within the time period under  
16       paragraph (1), the transportation project shall be deemed  
17       approved.

18 § 9106. Operation of board.

19       (a) Technical assistance.--The department shall supply all  
20       necessary assistance to assist the board in carrying out its  
21       duties and responsibilities, including retention of legal,  
22       financial and technical consultants to assist with this role.

23       (b) Analysis.--The department shall develop a detailed  
24       analysis of a request or recommendation prior to approval by the  
25       board.

26       (c) Oversight.--If a transportation project becomes a  
27       public-private transportation project, the department shall  
28       retain oversight and monitor the public-private transportation  
29       project, including periodic reports to the board, as necessary.

30 § 9107. Solicitations for transportation projects.

1 A public entity may solicit transportation projects through a  
2 request for transportation projects. The public entity shall  
3 give public notice of a request for transportation projects  
4 consistent with section 9110(c) (relating to selection of  
5 development entities). Offerors shall submit their responses to  
6 the public entity in the form and manner required by the request  
7 for transportation projects. A public entity shall evaluate each  
8 response to determine if the response is in the best interest of  
9 the public entity. Upon being satisfied, the public entity may  
10 prepare and submit a request to the board to review the  
11 transportation project in accordance with this chapter.

12 § 9108. Transportation projects.

13 ~~(a) Submission. Except as provided under subsection (b), a~~ ←  
14 A public entity which seeks to undertake a transportation ←  
15 project which has not been previously approved by the board  
16 shall submit a request for the transportation project to the  
17 board.

18 ~~(b) Exception. This section shall not apply to a~~ ←  
19 ~~transportation project which a public entity is authorized to~~  
20 ~~undertake prior to the effective date of this subsection.~~

21 § 9109. Requests.

22 A request may be solicited or unsolicited and may provide for  
23 the development or operation of transportation facilities using  
24 a variety of project delivery methods and forms of agreement.  
25 The methods may include:

26 (1) Predevelopment agreements leading to other  
27 implementing agreements.

28 (2) A design-build agreement.

29 (3) A design-build-operate agreement.

30 (4) A design-build-maintain agreement.

- 1           (5) A design-build-finance-operate agreement.
- 2           (6) A design-build-operate-maintain agreement.
- 3           (7) A design-build-finance-operate-maintain agreement.
- 4           (8) An operate-maintain agreement.
- 5           (9) A concession providing for the development entity to  
6 design, build, operate, maintain, manage or lease a  
7 transportation facility.
- 8           (10) Any other innovative or nontraditional project  
9 delivery method or agreement or combination of methods or  
10 agreements that the public entity determines will address the  
11 transportation needs of the Commonwealth and the public  
12 entity and serve the public interest.

13 § 9110. Selection of development entities.

14       (a) Conditions for use.--If a transportation project is  
15 approved under section 9105 (relating to duties of board), the  
16 public entity may enter into a contract for the transportation  
17 project by competitive sealed proposals.

18       (b) Request for proposals.--After receiving the  
19 determination required by subsection (a), a public entity shall  
20 solicit proposals through a request for proposals.

21       (c) Public notice.--A public entity shall give public notice  
22 of a request for proposals consistent with regulations adopted  
23 by the department. The notice shall be given a reasonable time  
24 prior to the date set for the close of receipt of the proposals.  
25 The method of public notice may include any of the following:

26           (1) Electronic publication which is accessible to the  
27 general public.

28           (2) Advertisement as provided for in 45 Pa.C.S. § 306  
29 (relating to use of trade publications).

30           (3) Issuance of request for proposals to offerors on the

1 mailing list of the public entity.

2 (4) Publication in a newspaper of general circulation.

3 (5) Where prequalification is a requirement of  
4 submitting a proposal, notification to all private entities  
5 who have been prequalified by the public entity.

6 (d) Copies of request for proposal.--Copies of a request for  
7 proposals shall be made available to any interested person upon  
8 request to the public entity. A public entity may establish  
9 procedures for the distribution of a request for proposals,  
10 including the imposition of a fee to reimburse the public entity  
11 for the costs of photocopying and mailing.

12 (e) Receipt of proposals.--Offerors shall submit their  
13 proposals to ensure that their proposals are received prior to  
14 the time and date established for receipt of the proposals.  
15 Proposals shall be submitted in the format required by the  
16 request for proposals. Proposals shall be opened so as to avoid  
17 disclosure of their contents to competing offerors.

18 (f) Evaluation.--A public entity shall evaluate each  
19 proposal to determine which proposal has the best value for and ←  
20 is in the best interest of the public entity. In making this  
21 determination, a public entity may consider any of the  
22 following:

23 (1) Cost.

24 (2) Price.

25 (3) Financial commitment.

26 (4) Innovative financing.

27 (5) Bonding.

28 (6) Technical, scientific, technological or  
29 socioeconomic merit.

30 (7) Financial strength and viability.

1       (8) Design, operation and feasibility of the  
2 transportation project.

3       (9) Public reputation, qualifications, industry  
4 experience and financial capacity of the private entity.

5       (10) The ability of the transportation project to  
6 improve economic growth, to improve public safety, to reduce  
7 congestion, to increase capacity or to rehabilitate,  
8 reconstruct or expand an existing transportation facility.

9       (11) The compatibility of the proposal with existing  
10 local and regional land use plans.

11       (12) The commitment of local communities to approve land  
12 use plans in preparation for the transportation project.

13       (13) Other factors deemed appropriate by the public  
14 entity.

15       (g) Weighted consideration.--The relative importance of each  
16 evaluation factor shall be fixed prior to opening the proposals  
17 AND THE PUBLIC ENTITY SHALL GIVE SUBSTANTIAL WEIGHT AND PRIORITY ←  
18 TO THE FOLLOWING FACTORS:

19       (1) THE OFFEROR COMMITS TO USING AMERICAN-MADE  
20 CONSTRUCTION MATERIALS.

21       (2) THE OFFEROR COMMITS TO USING PENNSYLVANIA-MADE  
22 STEEL.

23       (3) THE OFFEROR'S PRINCIPAL PLACE OF BUSINESS IS LOCATED  
24 IN THE UNITED STATES.

25       (4) THE OFFEROR'S PRINCIPAL PLACE OF BUSINESS IS LOCATED  
26 IN THIS COMMONWEALTH.

27       (5) THE OFFEROR HAS OR WILL CREATE A PHYSICAL PRESENCE  
28 IN THIS COMMONWEALTH.

29       (h) Participation in evaluation.--If the public entity is  
30 the Commonwealth, the department is required to invite its

1 comptroller to participate in the evaluation as a nonvoting  
2 member of any evaluation committee. No individual who has been  
3 employed by an offeror within the last two years may participate  
4 in the evaluation of proposals.

5 (i) Discussion with responsible offerors and revision of  
6 proposals.--As provided in the request for proposals,  
7 discussions and negotiations may be conducted with responsible  
8 offerors for the purpose of clarification and of obtaining best  
9 and final offers. Responsible offers shall be accorded fair and  
10 equal treatment with respect to any opportunity for discussion  
11 and revision of proposals. In conducting discussions, there  
12 shall be no disclosure of any information derived from proposals  
13 submitted by competing offerors.

14 (j) Selection for negotiation.--The responsible offeror  
15 whose proposal is determined in writing to be the best value for ←  
16 and in the best interests of the public entity, taking into  
17 consideration all evaluation factors, shall be selected for  
18 contract negotiation.

19 (k) Cancellation.--A request for proposals may be canceled  
20 at any time prior to the time a public-private transportation  
21 partnership agreement is executed by all parties when it is in  
22 the best interests of the public entity.

23 (l) Award.--Upon reaching an agreement with a responsible  
24 offeror, a public entity shall enter into a public-private  
25 transportation partnership agreement with the responsible  
26 offeror. The public-private transportation partnership agreement  
27 shall be consistent with the requirements of this chapter. If  
28 agreement cannot be reached with the best qualified responsible  
29 offeror, then negotiations will be formally terminated with the  
30 offeror. If proposals were submitted by one or more other



1 responsible offerors, negotiations may be conducted with the  
2 other responsible offeror or responsible offerors in the order  
3 of their respective qualification ranking. The contract may be  
4 awarded to the responsible offeror then ranked as best  
5 qualified.

6 (m) Resolution of controversies involving the  
7 Commonwealth.--If a prospective offeror, offeror or development  
8 entity is aggrieved by a selection under this section and the  
9 public entity or proprietary public entity in the invitation or  
10 contract is the Commonwealth, the prospective offeror, offeror  
11 or development entity may file a protest or a claim, as  
12 appropriate, in accordance with 62 Pa.C.S. Ch. 17 (relating to  
13 legal and contractual remedies).

14 ~~(n) Resolution of controversies not involving the~~ ←  
15 ~~Commonwealth. If a prospective offeror, offeror or development~~  
16 ~~entity is aggrieved by a selection under this section and the~~  
17 ~~public entity or proprietary public entity in the invitation or~~  
18 ~~contract is an entity other than the Commonwealth, a prospective~~  
19 ~~offeror, offeror or development entity may file a protest or a~~  
20 ~~claim, as appropriate, with the court of common pleas where the~~  
21 ~~public entity or proprietary public entity is located. The~~  
22 ~~processes for the filing and resolution of protests and the~~

23 (N) RESOLUTION OF CONTROVERSIES NOT INVOLVING THE ←  
24 COMMONWEALTH.--IF A DEVELOPMENT ENTITY IS AGGRIEVED BY A  
25 SELECTION UNDER THIS SECTION AND THE PROPRIETARY PUBLIC ENTITY  
26 IN THE CONTRACT IS AN ENTITY OTHER THAN THE COMMONWEALTH, A  
27 DEVELOPMENT ENTITY MAY FILE A CLAIM WITH THE COURT OF COMMON  
28 PLEAS WHERE THE PROPRIETARY PUBLIC ENTITY IS LOCATED. THE  
29 PROCESSES FOR THE filing and resolution of claims, including  
30 rights, contents, timing, evaluation, determination and

1 remedies, which are established in 62 Pa.C.S. Ch. 17, shall  
2 apply insofar as they are practicable.

3 § 9111. Public-private transportation partnership agreement.

4 (a) Agreement provisions.--A public-private transportation  
5 partnership agreement shall include the following provisions:

6 (1) A description of any planning, development, design,  
7 leasing, acquisition or interest in, financing, installation,  
8 construction, reconstruction, replacement, expansion,  
9 operation, maintenance, improvement, equipping, modification,  
10 expansion, enlargement, management, running, control and  
11 operation of the public-private transportation project.

12 (2) The term of the public-private transportation  
13 partnership agreement.

14 (3) The type of property interest or other relationship  
15 the development entity will have in or with respect to the  
16 public-private transportation partnership project, including  
17 acquisition of rights-of-way and other property interests  
18 that may be required.

19 (4) Authorization for the proprietary public entity or  
20 its authorized representatives to inspect all assets and  
21 properties of the public-private transportation project and  
22 all books and records of the development entity relating to  
23 the public-private transportation project to review the  
24 development entity's performance under the public-private  
25 transportation partnership agreement.

26 (5) Grounds for termination of the public-private  
27 transportation partnership agreement by the parties.

28 (6) Procedures for amendment of the public-private  
29 transportation partnership agreement.

30 (7) The rights and remedies available in the event of

1 breach, default or delay.

2 (8) Requirements for a development entity to provide  
3 performance and payment bonds, parent company guarantees,  
4 letters of credit or other acceptable forms of security in an  
5 amount acceptable to the proprietary public entity.

6 (9) A requirement that ownership of a transportation  
7 facility acquired or constructed go to or remain with the  
8 proprietary public entity.

9 (10) Standards for construction, maintenance and  
10 operation of the public-private transportation project if the  
11 activities are to be performed by the development entity.

12 (11) Standards for capital improvement or modification  
13 of the public-private transportation project if they are to  
14 be made by the development entity.

15 (12) Standards relating to how payments, if any, are to  
16 be made by the proprietary public entity to the development  
17 entity, including availability payments, performance-based  
18 payment and payments of money and revenue-sharing with the  
19 development entity.

20 (13) Standards relating to how the parties will allocate  
21 and share management of the risks of the public-private  
22 transportation project.

23 (14) Standards relating to how the parties will allocate  
24 costs of development of the public-private transportation  
25 project, including any cost overruns.

26 (15) Standards relating to damages to be assessed for  
27 nonperformance, specifying remedies available to the parties  
28 and dispute resolution procedures.

29 (16) Standards relating to performance criteria and  
30 incentives.

1       (17) A requirement that upon termination of the public-  
2 private transportation partnership agreement, a  
3 transportation facility that was the subject of the public-  
4 private transportation partnership agreement must be in a  
5 state of proper maintenance and repair and shall be returned  
6 to the proprietary public entity in satisfactory condition at  
7 no further cost to the proprietary public entity.

8       (18) Provisions for law enforcement related to the  
9 public-private transportation project.

10       (19) An obligation of the development entity to offer  
11 employment to any employee of the proprietary public entity  
12 who would lose employment due to the execution of the public-  
13 private transportation partnership agreement and who is in  
14 good standing at the time of execution of the public-private  
15 transportation partnership agreement, including salary,  
16 retirement, health and welfare and benefits which are  
17 substantially identical to the benefits received by the  
18 employees immediately prior to execution of the public-  
19 private transportation partnership agreement for the term of  
20 the collective bargaining agreement of those employees in  
21 effect.

22       (20) Other terms and provisions as required under this  
23 chapter or agreed to by the development entity and the  
24 proprietary public entity.

25       (21) AN EMPLOYEE COVERED UNDER A COLLECTIVE BARGAINING  
26 AGREEMENT AFFECTED BY A PUBLIC-PRIVATE TRANSPORTATION  
27 PARTNERSHIP AGREEMENT SHALL BE REASSIGNED, WITHOUT LOSS OF  
28 SENIORITY, TO ANOTHER EQUAL TO, BUT NOT LESS THAN, POSITION  
29 WITHIN THE SAME WORKSITE WHERE APPLICABLE OR WITHIN A  
30 REMAINING PROXIMATE WORKSITE OF OTHER TRANSPORTATION



1 FACILITIES. IN THE CASE OF THE DEPARTMENT, THIS WOULD MEAN A  
2 POSITION HELD WITHIN THE SAME COUNTY MAINTENANCE DISTRICT OR,  
3 IN THE CASE OF REGIONAL TRANSIT AUTHORITY, A POSITION HELD  
4 WITHIN THAT REGIONAL TRANSIT AUTHORITY AS APPLICABLE. NOTHING  
5 IN THIS PARAGRAPH SHALL PREVENT AN EMPLOYEE FROM CHOOSING  
6 EMPLOYMENT WITH THE PRIVATE ENTITY.

7 (22) PROVISIONS UNDER WHICH THE DEVELOPMENT ENTITY  
8 AGREES TO DEVELOP, ADOPT AND IMPLEMENT BINDING POLICIES OR  
9 GUIDELINES TO ENSURE THE FOLLOWING:

10 (I) THAT ALL PERSONS ARE ACCORDED EQUAL OPPORTUNITY  
11 IN EMPLOYMENT.

12 (II) THAT DISADVANTAGED BUSINESSES, AS CERTIFIED AND  
13 LISTED BY THE DEPARTMENT OF GENERAL SERVICES IN  
14 ACCORDANCE WITH 62 PA.C.S. CH. 21 (RELATING TO SMALL AND  
15 DISADVANTAGED BUSINESSES), ARE ACCORDED EQUAL OPPORTUNITY  
16 IN PURCHASING, CONTRACTING AND SUBCONTRACTING ASSOCIATED  
17 WITH A PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP  
18 AGREEMENT. THIS PARAGRAPH INCLUDES A DEVELOPMENT ENTITY'S  
19 CONTRACTORS, SUBCONTRACTORS, ASSIGNEES, LESSEES, AGENTS,  
20 VENDORS AND SUPPLIERS.

21 (b) Term.--The proprietary public entity may enter into a  
22 public-private transportation partnership agreement with any  
23 development entity that includes the provisions under subsection  
24 (a) for a term not to exceed 99 years.

25 (c) Public partner.--Nothing in this chapter shall prohibit  
26 the department from entering into a public-private  
27 transportation partnership agreement with another Commonwealth  
28 agency in accordance with this chapter.

29 (d) Public entity.--Nothing in this chapter shall prohibit a  
30 public entity from entering into a public-private transportation

1 partnership agreement with one or more public entities in  
2 accordance with this chapter.

3 (e) Environmental costs.--

4 (1) A proprietary public entity may provide in a public-  
5 private transportation partnership agreement that it will pay  
6 or reimburse, on terms that it deems appropriate, the  
7 development entity for actual costs associated with necessary  
8 remediation for existing environmental contaminants located  
9 on, under or emanating from the real property associated with  
10 a public-private transportation project as of the date the  
11 development entity assumes responsibility for the public-  
12 private transportation project. If the public-private  
13 transportation partnership agreement provides for  
14 environmental remediation, the public-private transportation  
15 partnership agreement shall require that the proprietary  
16 public entity be given:

17 (i) Prompt notice of any claim against the  
18 proprietary public entity or a third party pertaining to  
19 the contaminants.

20 (ii) The right to elect to undertake the necessary  
21 remediation.

22 (iii) The right to participate in the defense of or  
23 response to any claim.

24 (iv) The right of prior approval before the  
25 development entity may settle any claim.

26 (2) No payment by a proprietary public entity under this  
27 section may be for anything other than actual costs incurred  
28 by a development entity to remediate the environmental  
29 contamination on, under or emanating from the real property  
30 associated with the public-private transportation project as

1 of the date the development entity assumes responsibility for  
2 the public-private transportation project.

3 (f) User fees.--A provision establishing whether user fees  
4 will be ~~collected~~ IMPOSED for use of the public-private ←  
5 transportation project and the basis by which any user fees will  
6 be IMPOSED AND collected shall be determined in the public- ←  
7 private transportation partnership agreement. If a user fee is  
8 proposed as part of the public-private transportation project, a  
9 proprietary public entity shall include provisions in the  
10 agreement that authorize the collection of user fees, tolls,  
11 fares or similar charges, including provisions that:

12 (1) Specify technology to be used in the public-private  
13 transportation project.

14 (2) Establish circumstances under which the proprietary  
15 public entity may receive a share of revenues from the  
16 charges.

17 (3) Govern the enforcement of electronic tolls,  
18 including provisions for use of available technology.

19 (4) Establish payment collection standards, including  
20 provisions for enforcement of nonpayment and penalties.

21 (5) In the event an operator of a vehicle fails to pay  
22 the prescribed toll or user fee at any location on a public-  
23 private transportation project where tolls or user fees are  
24 collected by means of an electronic or other automated or  
25 remote form of collection, the collection provisions of  
26 section 8117 (relating to electronic toll collection) shall  
27 apply except that the development entity shall possess all of  
28 the rights, roles, limitations and responsibilities of the  
29 Pennsylvania Turnpike Commission.

30 (g) Amounts received under a public-private transportation

1 partnership agreement.--The net proceeds received by the  
2 proprietary public entity under a public-private transportation  
3 partnership agreement shall be available exclusively to provide  
4 funding for transportation needs in this Commonwealth. The use  
5 of the proceeds or other revenues from the public-private  
6 transportation project shall comply with Federal or State law  
7 restricting or limiting the use of revenue from the public-  
8 private transportation project based on its public funding.

9 (H) DEFINITIONS.--THE FOLLOWING WORDS AND PHRASES WHEN USED ←  
10 IN THIS SECTION SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS  
11 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

12 "DISADVANTAGED BUSINESS." A SMALL BUSINESS WHICH IS OWNED OR  
13 CONTROLLED BY A MAJORITY OF PERSONS, NOT LIMITED TO MEMBERS OF  
14 MINORITY GROUPS, WHO:

15 (1) HAVE BEEN DEPRIVED OF THE OPPORTUNITY TO DEVELOP AND  
16 MAINTAIN A COMPETITIVE POSITION IN THE ECONOMY BECAUSE OF  
17 SOCIAL DISADVANTAGES.

18 (2) ARE VETERANS, INCLUDING SERVICE-DISABLED VETERANS.

19 "SERVICE-DISABLED VETERANS." A VETERAN WHO POSSESSES EITHER  
20 AN ADJUDICATION LETTER FROM THE UNITED STATES VETERANS  
21 ADMINISTRATION ESTABLISHING A SERVICE-CONNECTED DISABILITY  
22 RATING OR A DISABILITY DETERMINATION FROM THE UNITED STATES  
23 DEPARTMENT OF DEFENSE.

24 "SMALL BUSINESS." THE TERM SHALL HAVE THE MEANING GIVEN TO  
25 IT IN 62 PA.C.S. § 2102 (RELATING TO DEFINITIONS).

26 "VETERAN." AN INDIVIDUAL WHO:

27 (1) SERVED IN THE ACTIVE UNITED STATES MILITARY IN ANY  
28 OF THE FOUR CURRENT BRANCHES AND ALL PREVIOUS BRANCHES,  
29 INCLUDING A RESERVE COMPONENT OR THE NATIONAL GUARD.

30 (2) WAS RELEASED OR DISCHARGED FROM ACTIVE MILITARY



1 SERVICE UNDER CONDITIONS OTHER THAN DISHONORABLE.

2 (3) POSSESSES A CERTIFICATE OF RELEASE OR DISCHARGE FROM  
3 ACTIVE DUTY.

4 § 9112. Records of requests.

5 ~~Notwithstanding the Right to Know Law, the~~ THE following ←  
6 shall apply:

7 (1) Upon the selection of a development entity to be a  
8 party to a public-private transportation partnership  
9 agreement, the identity of the development entity selected,  
10 the contents of the response of the development entity to the  
11 request for proposals, the final proposal submitted by the  
12 development entity and the form of the public-private  
13 transportation partnership agreement shall be made public.  
14 Any financial information of a development entity that was  
15 requested in the request for proposals or during discussions  
16 and negotiations to demonstrate the economic capability of a  
17 development entity to fully perform the requirements of the  
18 public-private transportation partnership agreement shall not  
19 be subject to public inspection.

20 (2) A proprietary public and a development entity may  
21 agree, in their discretion, to make public any information  
22 described under paragraph (1) that would not otherwise be  
23 subject to public inspection.

24 (3) If a proprietary public entity terminates a public-  
25 private transportation partnership agreement for default,  
26 rejects a private entity on the grounds that the private  
27 entity is not responsible or suspends or debars a development  
28 entity, the private entity or development entity, as  
29 appropriate, shall, upon written request, be provided with a  
30 copy of the information contained in the file of the private

1 entity or development entity maintained by the proprietary  
2 public entity under a contractor responsibility program.

3 ~~(4) The following information shall not be subject to~~ ←  
4 ~~the Right to Know Law:~~

5 (4) THE FOLLOWING INFORMATION SHALL NOT BE PUBLIC: ←

6 (i) Information relating to proprietary information,  
7 trade secrets, patents or exclusive licenses,  
8 architectural and engineering plans and information  
9 relating to competitive marketing materials and  
10 strategies.

11 (ii) Security information, including risk prevention  
12 plans, detection and countermeasures, emergency  
13 management plans, security and surveillance plans,  
14 equipment and usage protocols and countermeasures.

15 (iii) Records considered nonpublic matters or  
16 information by the Securities and Exchange Commission  
17 under 17 CFR 200.80 (relating to commission records and  
18 information).

19 (iv) Any financial information deemed confidential  
20 by the proprietary public entity upon a showing of good  
21 cause by an offeror or development entity.

22 (V) RECORDS PREPARED OR UTILIZED TO EVALUATE A ←  
23 PROPOSAL.

24 § 9113. Use of intellectual property.

25 Unless otherwise agreed and except to the extent not  
26 transferable by law, the department or a proprietary public  
27 entity shall have the right to use all or a portion of a  
28 submitted proposal, including the technologies, techniques,  
29 methods, processes and information contained in the proposal.  
30 Notice of nontransferability by law shall be given to the

1 department and the proprietary public entity in response to the  
2 request for proposals.

3 § 9114. Police powers and violations of law.

4 (a) Enforcement of traffic laws.--To the extent the public-  
5 private transportation project is a highway, bridge, tunnel  
6 overpass or similar transportation facility for motor vehicles,  
7 75 Pa.C.S. (relating to vehicles) and other laws of this  
8 Commonwealth or, if applicable, any local jurisdiction shall be  
9 the same as those applying to conduct on similar transportation  
10 facilities in this Commonwealth or the local jurisdiction.  
11 Punishment for offenses shall be prescribed by law for conduct  
12 occurring on similar transportation facilities in this  
13 Commonwealth or the local jurisdiction.

14 (b) Arrest powers.--All officers authorized by law to make  
15 arrests for violations of law in this Commonwealth shall have  
16 the same powers, duties and jurisdiction within the limits of a  
17 public-private transportation project as they have in their  
18 respective areas of jurisdiction. The grant of authority under  
19 this section shall not extend to the private offices, buildings,  
20 garages and other improvements of a development entity to any  
21 greater degree than the police power extends to any other  
22 private offices, buildings, garages and other improvements.

23 § 9115. Environmental and other authorizations.

24 (a) The Administrative Code of 1929.--Notwithstanding any  
25 other provision of law, neither soliciting nor approving a  
26 request for proposals, nor executing a public-private  
27 transportation partnership agreement under this chapter shall  
28 constitute the submission of a preliminary plan or design to the  
29 department under section 2002(b) of the act of April 9, 1929  
30 (P.L.177, No.175), known as The Administrative Code of 1929.

1 (b) Environmental authorizations.--A public-private  
2 transportation partnership agreement may require that prior to  
3 commencing any construction in connection with the development,  
4 operation or financing of any public-private transportation  
5 project if the agreement requires environmental authorizations  
6 to be obtained, the development entity shall do any of the  
7 following:

8 (1) Secure all necessary environmental permits and  
9 authorizations and, if specified under the act of May 19,  
10 1995 (P.L.4, No.2), known as the Land Recycling and  
11 Environmental Remediation Standards Act, obtain the approval  
12 of the Department of Environmental Protection.

13 (2) Complete environmental remediation of the site on  
14 which the public-private transportation project is to be  
15 located, including acts required under any agreement entered  
16 into with the Department of Environmental Protection for  
17 remediation of the site under the Land Recycling and  
18 Environmental Remediation Standards Act.

19 § 9116. Taxation of development entity.

20 (a) General rule.--To the extent that revenues or user fees  
21 received by a development entity pursuant to a public-private  
22 transportation partnership agreement are subject to a tax  
23 imposed by a political subdivision prior to the effective date  
24 of this section, the revenues or user fees shall continue to be  
25 subject to the tax and to future increases in the rate of the  
26 tax.

27 (b) New taxation barred.--After the effective date of this  
28 section, no new tax shall be imposed by a political subdivision  
29 or the Commonwealth on the revenues or user fees received by a  
30 development entity pursuant to a public-private transportation

1 partnership agreement.

2 (c) Realty transfer tax.--No public-private transportation  
3 partnership agreement, lease, concession, franchise or other  
4 contract involving real property of a public-private  
5 transportation project shall be subject to a Commonwealth or  
6 local realty transfer tax imposed under the act of December 31,  
7 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act,  
8 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform  
9 Code of 1971, or a successor statute.

10 (d) Property.--Property used in connection with a public-  
11 private transportation project shall be considered public  
12 property and shall be exempt from ad valorem property taxes and  
13 special assessments levied against property by the Commonwealth  
14 or any political subdivision.

15 § 9117. Power of eminent domain.

16 The exercise of the power of eminent domain by any condemnor  
17 to acquire property for public-private transportation project  
18 purposes under a public-private transportation partnership  
19 agreement shall be considered a taking for a public purpose and  
20 not for a private purpose or for private enterprise.

21 § 9118. Sovereign immunity.

22 Under section 11 of Article 1 of the Constitution of  
23 Pennsylvania, it is declared to be the intent of the General  
24 Assembly that the Commonwealth, and its officials and employees  
25 and a municipal authority, and its officials and employees,  
26 acting within the scope of their duties, shall continue to enjoy  
27 sovereign immunity and official immunity and remain immune from  
28 suit except as provided in section 9119 (relating to specific  
29 performance). A claim against the Commonwealth and its officials  
30 and employees or municipal authority and its officials and

1 employees shall be brought only in such manner and in such  
2 courts and in such cases as directed by the provision of section  
3 9111(e) (relating to public-private transportation partnership  
4 agreement), 42 Pa.C.S. Ch. 85 (relating to matters affecting  
5 government units), 62 Pa.C.S. Ch. 17 (relating to legal and  
6 contractual remedies) or any procurement law applicable to a  
7 municipal authority.

8 § 9119. Specific performance.

9 A proprietary public entity is authorized to agree that  
10 specific performance shall be available to a development entity  
11 as a remedy for a breach by the proprietary public entity of its  
12 representations, covenants, warranties or other obligations  
13 under the public-private transportation partnership agreement to  
14 the extent set forth in the public-private transportation  
15 partnership agreement.

16 § 9120. Additional provisions.

17 To the extent applicable, all provisions of law shall apply  
18 to a contract entered into between a proprietary public entity  
19 and a development entity related to the development, operation  
20 or financing of a public private transportation project under  
21 this chapter. This section includes:

22 (1) 62 Pa.C.S. § 107 (relating to reciprocal  
23 limitations).

24 (2) 62 Pa.C.S. § 531 (relating to debarment or  
25 suspension).

26 (3) 62 Pa.C.S. § 541 (relating to approval of accounting  
27 system).

28 (4) 62 Pa.C.S. § 551 (relating to right to inspect  
29 plant).

30 (5) 62 Pa.C.S. § 552 (relating to right to audit

1 records).

2 (6) 62 Pa.C.S. § 563 (relating to retention of  
3 procurement records).

4 § 9120. APPLICABILITY OF OTHER LAWS.



5 (A) GENERAL RULE.--EXCEPT AS PROVIDED UNDER SUBSECTIONS (B)  
6 AND (C), ALL PROVISIONS OF EXISTING LAW RELATED TO THE  
7 DEVELOPMENT, OPERATION OR FINANCING OF A TRANSPORTATION PROJECT  
8 SHALL APPLY TO A PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP  
9 AGREEMENT ENTERED INTO BETWEEN A PROPRIETARY PUBLIC ENTITY AND A  
10 DEVELOPMENT ENTITY TO THE EXTENT THEY ARE APPLICABLE ON THE DATE  
11 THE PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP AGREEMENT IS FULLY  
12 EXECUTED. THESE PROVISIONS INCLUDE:

13 (1) THE ACT OF MAY 1, 1913 (P.L.155, NO.104), REFERRED  
14 TO AS THE SEPARATIONS ACT.

15 (2) THE ACT OF AUGUST 15, 1961 (P.L.987, NO.442), KNOWN  
16 AS THE PENNSYLVANIA PREVAILING WAGE ACT.

17 (B) LIMITATION.--THE FOLLOWING APPLY:

18 (1) IF THE PUBLIC ENTITY OR THE PROPRIETARY PUBLIC  
19 ENTITY IS THE COMMONWEALTH, 62 PA.C.S. (RELATING TO  
20 PROCUREMENT) SHALL APPLY ONLY TO THE EXTENT PROVIDED UNDER  
21 PARAGRAPH (2).

22 (2) THE FOLLOWING PROVISIONS SHALL APPLY IF THE PUBLIC  
23 ENTITY OR THE PROPRIETARY PUBLIC ENTITY IS THE COMMONWEALTH:

24 (I) 62 PA.C.S. § 107 (RELATING TO RECIPROCAL  
25 LIMITATIONS).

26 (II) 62 PA.C.S. § 531 (RELATING TO DEBARMENT OR  
27 SUSPENSION).

28 (III) 62 PA.C.S. § 541 (RELATING TO APPROVAL OF  
29 ACCOUNT SYSTEM).

30 (IV) 62 PA.C.S. § 551 (RELATING TO RIGHT TO INSPECT

1 PLANT).

2 (V) 62 PA.C.S. § 552 (RELATING TO RIGHT TO AUDIT  
3 RECORDS).

4 (VI) 62 PA.C.S. § 563 (RELATING TO RETENTION OF  
5 PROCUREMENT RECORDS).

6 (VII) 62 PA.C.S. § CH 17 (RELATING TO LEGAL AND  
7 CONTRACTUAL REMEDIES).

8 (C) EXCEPTION.--THIS CHAPTER SHALL NOT APPLY TO A  
9 TRANSPORTATION PROJECT WHICH A PUBLIC ENTITY IS AUTHORIZED UNDER  
10 LAW TO UNDERTAKE ON THE EFFECTIVE DATE OF THIS SUBSECTION.  
11 § 9121. Adverse interest.

12 (a) Private entity adverse interests.--The following shall  
13 apply:

14 (1) Except as provided under paragraph (2), a private  
15 entity which submits a response to a request for proposals  
16 under section 9110 (relating to selection of development  
17 entities), a request for transportation projects under  
18 section 9107 (relating to solicitations for transportation  
19 projects) or an unsolicited proposal, and which is also a  
20 State adviser or a State consultant for the department or the  
21 Pennsylvania Turnpike Commission, shall not be deemed to be  
22 in violation of the State Adverse Interest Act while engaging  
23 in any of the following activities:

24 (i) Preparing or submitting a response to a request  
25 for proposals or transportation projects.

26 (ii) Participating in any activity with the  
27 department related to a request for proposals or  
28 transportation projects.

29 (iii) Negotiating and entering into any contract  
30 lease or public-private transportation partnership



1 agreement which results from a request for proposals or  
2 transportation projects.

3 (iv) Engaging in any other action taken in  
4 furtherance of the purposes of this chapter.

5 (2) A private entity which submits a response to a  
6 request for proposals or transportation projects or acts as a  
7 consultant or an adviser to a private entity which submits a  
8 response to a request for proposals or transportation  
9 projects to the department shall be prohibited from  
10 consulting or providing advice to the department on the  
11 review or approval of the response to the request for  
12 proposals or transportation projects as submitted.

13 (3) A private entity which submits a response to a  
14 request for proposals or transportation projects or acts as a  
15 consultant or an advisor to a private entity which submits a  
16 response to a request for proposals or transportation  
17 projects to the board shall be prohibited from consulting or  
18 providing advice to the department on the review or approval  
19 of the response to the request for proposals or  
20 transportation projects so submitted.

21 (b) Definitions.--As used in this section, the following  
22 words and phrases shall have the meanings given to them in this  
23 subsection unless the context clearly indicates otherwise:

24 "State adviser." As defined in section 2(7) of the act of  
25 July 19, 1957 (P.L.1017, No.451), known as the State Adverse  
26 Interest Act.

27 "State consultant." As defined in section 2(9) of the act of  
28 July 19, 1957 (P.L.1017, No.451), known as the State Adverse  
29 Interest Act.

30 § 9122. Federal, State, local and private assistance.

1 (a) Federal assistance.--The following shall apply:

2 (1) The department or a proprietary public entity may  
3 accept from the United States or any of its agencies funds  
4 that are available to the Commonwealth for carrying out this  
5 chapter, whether the funds are made available by grant, loan,  
6 loan guarantee or otherwise.

7 (2) The department or a proprietary public entity is  
8 authorized to assent to any Federal requirements, conditions  
9 or terms of any Federal funding accepted by the department or  
10 a proprietary public entity under this section.

11 (3) The department or a proprietary public entity may  
12 enter into agreements or other arrangements with the United  
13 States or any of its agencies as may be necessary for  
14 carrying out the purposes of this chapter.

15 (b) Acceptance of grants and donations.--The department or a  
16 proprietary public entity may accept from any source any grant,  
17 donation, gift or other form of conveyance of land, money or  
18 other real, personal or mixed property or other item of value  
19 for carrying out the purpose of this chapter.

20 (c) Contributions.--Subject to acceptance and agreement  
21 between the development entity and a proprietary public entity,  
22 any public-private transportation project may be financed, in  
23 whole or in part, by contribution of any funds or property made  
24 by a proprietary public entity, a development entity or an  
25 affected jurisdiction.

26 (d) Combination of funds.--The department or proprietary  
27 public entity may combine Federal, State, local and private  
28 funds to finance a public-private transportation project under  
29 this chapter.

30 § 9123. Public-Private Transportation Account.

1 (a) Establishment.--

2 (1) There is established within the Motor License Fund a  
3 separate account to be known as the Public-Private  
4 Transportation Account.

5 (2) Money in the account shall be used only for the  
6 purposes enumerated under subsection (c).

7 (b) Deposits to account.--The following shall apply:

8 (1) The department shall deposit in the account the  
9 following:

10 (i) All money received by the department pursuant to  
11 the terms of a public-private transportation partnership  
12 agreement under which the department is the proprietary  
13 public entity.

14 (ii) Repayment of any loans from the account made  
15 under this chapter.

16 (iii) Subject to the provisions of any public-  
17 private transportation partnership agreement under which  
18 the department is the proprietary public entity, monetary  
19 damages and other amounts for failure by a development  
20 entity to comply with the terms of the public-private  
21 transportation partnership agreement.

22 (iv) Subject to the provisions of any public-private  
23 transportation partnership agreement under which the  
24 department is the proprietary public entity, payments  
25 made from any insurance proceeds or reserve funds or  
26 performance or payment bonds in connection with a public-  
27 private transportation project.

28 (v) Earnings from the investment of the money in the  
29 account.

30 (2) The Secretary of the Budget shall establish any

1 restricted accounts within the account as the secretary deems  
2 necessary for the proper administration of the account.

3 (3) All money related to any public-private  
4 transportation partnership agreement in which the department  
5 is not the proprietary public entity shall not be held in the  
6 account, but shall be held by the proprietary public entity  
7 or its agent.

8 (c) Appropriation.--The funds in the account are  
9 continuously appropriated to the department for the following  
10 purposes:

11 (1) Paying the amounts as the department may be required  
12 to repay the Federal Highway Administration FUNDING AGENCIES. ←

13 (2) Paying all amounts designated by the department as  
14 required for repayment or defeasance of outstanding bonds.

15 (3) Paying costs of maintenance, operating and financing  
16 of transportation facilities in this Commonwealth which are  
17 available for use by the public, including the costs of  
18 insurance or reserves against risks of contingencies.

19 (4) Paying expenses incurred under or in connection with  
20 any public-private transportation partnership agreement by  
21 the department, including professional fees and expenses.

22 (5) Paying the costs of the department relating to  
23 performing and administering duties under this chapter.

24 (6) Paying all expenses approved by the board for its  
25 costs incurred to perform its duties, including paying  
26 professional fees and expenses.

27 (7) Paying costs of any purpose authorized under this  
28 chapter.

29 (d) Amounts received.--The net proceeds received under a  
30 public-private transportation partnership agreement shall be

1 available exclusively to provide funding for transportation  
2 needs in this Commonwealth. The use of the proceeds or other  
3 revenues from the public-private transportation project shall be  
4 in accord with Federal or State law restricting or limiting the  
5 use of revenue from the public-private transportation project  
6 based on its public funding.

7 § 9124. Pennsylvania Turnpike Commission.

8 The Pennsylvania Turnpike Commission may not enter into a  
9 public-private transportation partnership agreement in the  
10 capacity of a proprietary public entity with respect to granting  
11 substantial oversight and control over the Turnpike Mainline to  
12 another entity unless specific authority is granted through an  
13 act of law passed by the General Assembly. However, this shall  
14 not restrict the Pennsylvania Turnpike Commission from entering  
15 into a public-private transportation partnership agreement under  
16 this chapter or under other statutes which does not involve  
17 granting substantial oversight and control over the Turnpike  
18 Mainline to another entity.

19 § 9125. Regulations.

20 (a) Department.--In order to facilitate the implementation  
21 of this chapter, the department is authorized to promulgate  
22 regulations or publish guidelines that include the following:

23 (1) The process for review of a request for proposals or  
24 transportation projects or responses to requests for  
25 proposals or transportation projects issued by a public  
26 entity.

27 (2) The process for receipt and review of and response  
28 to competing responses to requests for proposals or  
29 transportation projects.

30 (3) The type and amount of information that is necessary

1 for adequate review of and response to each stage of review  
2 of a proposal or transportation project.

3 (4) THE PROCESS AND PROCEDURES TO ENSURE THAT A ←  
4 DEVELOPMENT ENTITY THAT ENTERS INTO A PUBLIC-PRIVATE  
5 TRANSPORTATION PARTNERSHIP AGREEMENT WITH A PROPRIETARY  
6 PUBLIC ENTITY FOR A PUBLIC-PRIVATE TRANSPORTATION PROJECT  
7 DEVELOPS, ADOPTS AND IMPLEMENTS BINDING POLICIES OR  
8 GUIDELINES TO ENSURE THAT ALL PERSONS ARE ACCORDED EQUAL  
9 OPPORTUNITY IN EMPLOYMENT, CONTRACTING, SUBCONTRACTING AND  
10 PURCHASING ASSOCIATED WITH THE PUBLIC-PRIVATE TRANSPORTATION  
11 PROJECT.

12 ~~(4)~~ (5) Any other provisions which are required under ←  
13 this chapter or which the department determines are  
14 appropriate for implementation of this chapter.

15 (b) Temporary regulations.--Notwithstanding any other  
16 provision of law, any regulation promulgated by the department  
17 under this chapter during the two years following the effective  
18 date of this section shall be deemed temporary regulations which  
19 shall expire no later than three years following the effective  
20 date of this section or upon promulgation of final regulations.  
21 The temporary regulations shall not be subject to any of the  
22 following:

23 (1) Sections 201, 202, 203 and 204 of the act of July  
24 31, 1968 (P.L.769, No.240), referred to as the Commonwealth  
25 Documents Law.

26 (2) The act of June 25, 1982 (P.L.633, No.181), known as  
27 the Regulatory Review Act.

28 Section 2. Repeals are as follows:

29 (1) The General Assembly declares that the repeal under  
30 paragraph (2) is necessary to effectuate the addition of 74

1 Pa.C.S. Ch. 91.

2 (2) Section 3 of the act of May 29, 1945 (P.L.1108,  
3 No.402), referred to as the Limited Access Highway Law, is  
4 repealed insofar as it is inconsistent with the addition of  
5 74 Pa.C.S. Ch. 91.

6 Section 3. This act shall take effect as follows:

7 (1) The addition of 74 Pa.C.S. §§ 9103, 9104, 9105, 9106  
8 and 9125 shall take effect immediately.

9 (2) This section shall take effect immediately.

10 (3) The remainder of this act shall take effect in 60  
11 days.