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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1173 Session of  
2011

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INTRODUCED BY KILLION, GEIST, BOYD, FABRIZIO, GODSHALL,  
LAWRENCE, MILLARD, REICHLEY, STEPHENS AND VULAKOVICH,  
MARCH 23, 2011

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REFERRED TO COMMITTEE ON TRANSPORTATION, MARCH 23, 2011

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AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania  
2 Consolidated Statutes, further providing for metropolitan  
3 transportation authority powers relating to alternative means  
4 of raising revenue or reducing expenses.

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

7 Section 1. Section 1741(a)(24) of Title 74 of the  
8 Pennsylvania Consolidated Statutes is amended to read:

9 § 1741. General powers.

10 (a) Powers enumerated.--An authority shall have and may  
11 exercise all powers necessary or convenient for the carrying out  
12 of the purposes of this chapter, including the following rights,  
13 powers and duties:

14 \* \* \*

15 (24) To explore alternative means of raising revenue or  
16 reducing expenses, including, but not limited to, real estate  
17 leases and rentals, equipment leases and rentals, contracting  
18 of services, the solicitation of competitive bids and the

1       awarding of contracts to the highest responsive, responsible  
2       bidder for both interior and exterior advertising on all  
3       authority equipment on which the public is charged a fare for  
4       riding. [However, on rail passenger units only bids for  
5       interior advertising shall be solicited.] Nothing in this  
6       chapter or in any other law of this Commonwealth shall  
7       preclude the negotiation and execution of contracts with  
8       respect to real estate-related matters in accordance with and  
9       subject solely to the provisions of this paragraph. The  
10      general manager may recommend in writing that the board make  
11      a finding of special opportunity with respect to a real  
12      estate-related matter. The board shall consider the general  
13      manager's recommendation at a public meeting. The notice  
14      given in accordance with the [act of July 3, 1986 (P.L.388,  
15      No.84), known as the Sunshine Act] provisions of 65 Pa.C.S.  
16      Ch. 7 (relating to open meetings), with respect to such  
17      meeting shall state that the board will consider making a  
18      finding of special opportunity at such meeting and shall  
19      describe the nature of the proposed finding of special  
20      opportunity. Any finding of special opportunity shall be  
21      approved by the board in accordance with the provisions of  
22      section 1715 (relating to meetings, quorum, officers and  
23      records). The board shall adopt, by resolution, a process  
24      under which the authority shall enter into contracts needed  
25      to implement a finding of special opportunity. The process  
26      adopted by the board shall provide a method of prequalifying  
27      prospective contracting parties, where appropriate; for the  
28      reasonable notification of prospective contracting parties of  
29      the issuance of requests for proposals and the reasonable  
30      opportunity for qualified prospective contracting parties to

1 submit proposals; for review of proposals from qualified  
2 prospective contracting parties; for the negotiation of  
3 contracts with one or more prospective contracting parties;  
4 for award of contracts on the basis of evaluation of the  
5 characteristics of the proposals; and for giving such weight  
6 to the various characteristics of any proposal as the board  
7 shall determine is in the best interest of the authority. The  
8 characteristics by which proposals may be evaluated under a  
9 finding of special opportunity may include the likely  
10 complexity of the transaction; the amount of investment any  
11 selected contracting party will be required to make or offers  
12 to make in the real estate-related matter; the experience and  
13 prior success of the proposed contracting party in other  
14 similar dealings with the same type of real estate-related  
15 matters or with the authority; the quality, feasibility and  
16 potential for economic success of the proposal; any cost or  
17 potential return to the authority; the economic reliability  
18 and financial viability of the proposed contracting party;  
19 the compatibility of the proposal with the authority's basic  
20 function as a public transportation provider; the date by  
21 which the proposed contracting party agrees to complete the  
22 real estate-related matter; and other factors which the board  
23 shall specify. The authority shall make available a copy of  
24 the process adopted by the board to any person requesting a  
25 copy of the process. The general manager may make a written  
26 recommendation to the board concerning the award of a  
27 contract under a finding of special opportunity. The general  
28 manager's recommendation shall include the identity of the  
29 prospective contracting party or parties, the purpose of the  
30 contract, the substance of the finding of special

1 opportunity, the substance and term of the proposed contract,  
2 the identities of any other prospective contracting parties  
3 who submitted proposals and the criteria upon which the  
4 general manager's recommendation was made and the reasons for  
5 selecting the prospective contracting party. Upon the written  
6 recommendation of the general manager, the board may award  
7 contracts under this paragraph after approving the awarding  
8 of the contract by a resolution adopted at a public meeting.  
9 The notice given in accordance with [the Sunshine Act] 65  
10 Pa.C.S. Ch. 7 with respect to such meeting shall state that  
11 the board will consider awarding a contract under a finding  
12 of special opportunity at such meeting and shall describe the  
13 subject matter of such proposed contract. The authority shall  
14 by April 15 of each year submit a report to the department.  
15 The report shall detail the actions of the authority in  
16 exploring alternate means of raising revenue and reducing  
17 expenses. The department shall review the report and issue  
18 its findings and recommendations to the Appropriations  
19 Committee and the Transportation Committee of the Senate and  
20 the Appropriations Committee and the Transportation Committee  
21 of the House of Representatives no later than 30 days after  
22 receipt of such report for review and consideration of future  
23 funding by such committees. Where any alternate means have  
24 been rejected, the authority shall demonstrate that the  
25 feasibility and cost-effectiveness of that alternate means  
26 have been considered. As used in this paragraph, "finding of  
27 special opportunity" shall mean a written determination by  
28 the board that exclusion of a real estate-related matter from  
29 bidding procedures, as provided in this chapter or any other  
30 law, will be in the best interest of the authority and will

1 be compatible with the authority's basic function as a public  
2 transportation provider, considering the nature of the real  
3 estate-related matter with respect to which the authority  
4 proposes to contract. Any finding of special opportunity  
5 shall include the basis on which the finding of special  
6 opportunity is being made.

7 \* \* \*

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