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TITLE 74
TRANSPORTATION

Part
I. Preliminary Provisions
II. Public Transportation
III. Aviation

IV. Highways
V. Transportation Infrastructure

Enactment. Unless otherwise noted, the provisions of Title 74 were added October 10, 1984, P.L.837, No.164, effective immediately.

Special Provisions in Appendix. See section 7 of Act 135 of 2016 in the appendix to this title for special provisions relating to status of certain businesses.

PART I
PRELIMINARY PROVISIONS

Chapter
1. Preliminary Provisions (Reserved)
2. Organization
3. Administrative Practice and Procedure

Enactment. Part I was added October 27, 2006, P.L.1182, No.122, effective in 60 days.

CHAPTER 1
PRELIMINARY PROVISIONS
(Reserved)

Enactment. Chapter 1 (Reserved) was added October 27, 2006, P.L.1182, No.122, effective in 60 days.

CHAPTER 2
ORGANIZATION

Sec.
201. Definitions.
202. Deputy secretaries.

Enactment. Chapter 2 was added November 25, 2013, P.L.974, No.89, effective immediately.

Special Provisions in Appendix. See the preamble to Act 89 of 2013 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 201. Definitions.

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

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

"Secretary." The Secretary of Transportation of the Commonwealth.

§ 202. Deputy secretaries.

(a) Appointment.--The secretary shall appoint the following deputy secretaries:

(1) Deputy Secretary for Administration.
(2) Deputy Secretary for Driver and Vehicle Services.
(3) Deputy Secretary for Highway Administration.
(4) Deputy Secretary for Multimodal Transportation.
(5) Deputy Secretary for Planning.

(b) Administration.--The Deputy Secretary for Administration has the powers and duties of the department under law relating to all of the following:

(1) Fiscal affairs.
(2) Operations analysis and improvement.
(3) Information services.
(4) Office services.
(5) Human resources.
(6) Equal opportunity.

(c) Driver and vehicle services.--The Deputy Secretary for Driver and Vehicle Services has the powers and duties of the department under law relating to all of the following:

(1) Drivers.
(2) Vehicles.
(3) Vehicle and driver safety.
(4) Services for other modes of transportation.

(d) Highway administration.--The Deputy Secretary for Highway Administration has the powers and duties of the department under law relating to all of the following:

(1) Design of highways and bridges.
(2) Land acquisition for highways and bridges.
(3) Construction and reconstruction of highways and bridges.
(4) Maintenance and operation of highways and bridges.
(5) Highway and bridge safety.

(e) Multimodal transportation.--The Deputy Secretary for Multimodal Transportation has the powers and duties of the department under law relating to modes of transportation other than highways, except recreational boating and ferry licensing, including all of the following:

(1) Local and public transportation.
(2) Rail freight.
(3) Ports and waterways.
(4) Aviation and airports.

(f) Planning.--The Deputy Secretary of Planning has the powers and duties of the department under law relating to all of the following:

(1) Planning and research.
(2) Program development and management.
(3) Services to municipalities.

CHAPTER 3
ADMINISTRATIVE PRACTICE AND PROCEDURE

Sec.
301. Definitions.
302. Use of hearing officers.
303. Diverse business participation.

Enactment. Chapter 3 was added October 27, 2006, P.L.1182, No.122, effective in 60 days.

§ 301. Definitions.

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

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

§ 302. Use of hearing officers.

(a) General rule.--The department may not utilize the services of employees of the department as hearing officers

with respect to the following activities and proceedings of the department:

(1) Appeals from the department's denial or recall of an occupational limited license.

(2) Appeals from the department's cancellation, denial or recall of a probationary license.

(3) Requests for record review under 75 Pa.C.S. § 1516 (relating to department records).

(4) Hearings to request credit toward serving driving privilege or vehicle registration suspensions.

(5) Appeals from the department's refusal to issue a certificate of title for reasons other than failure to pay a required fee or tax in connection with or resulting from the acquisition or use of a vehicle.

(6) Any other matter as determined by the department by regulation.

(b) Scope of authority.--A hearing officer utilized by the department for the proceedings described under subsection (a) shall be vested with the same authority and duties as a department hearing officer under the provisions of 67 Pa. Code Ch. 491 (relating to administrative practice and procedure).

(c) Appeals.--An adjudication by a hearing officer utilized by the department under subsection (a) shall be appealable in accordance with 67 Pa. Code § 491.12 (relating to exceptions).

§ 303. Diverse business participation.

(a) General rule.--In administering contracts for construction and professional services relating to transportation projects which are funded pursuant to the provisions of this title or 75 Pa.C.S. (relating to vehicles), the contracting entities shall:

(1) Be responsible for ensuring that all competitive contract opportunities subject to this section which are issued by the contracting entities seek to maximize participation by diverse businesses.

(1.1) Include in solicitations for bids and requests for proposals on all competitive contracting opportunities subject to this section notice to the bidder or offeror that:

(i) The bidder or offeror shall document and submit to the applicable contracting entity all good faith efforts to solicit subcontractors that are diverse businesses during the bidding or proposal process.

(ii) The bidder or offeror shall provide within seven days of being declared the low bidder or successful offeror the name and business address of each subcontractor that is a diverse business that will provide the contractor with construction or professional services in connection with the performance of the contract.

(2) Include in the solicitations for bids and requests for proposals under paragraph (1.1) language encouraging bidders and offerors to utilize and give consideration to contractors offering to utilize diverse businesses in the selection and award of contracts.

(3) Ensure that the contracting entities' commitment to participation by diverse businesses is clearly understood and appropriately implemented and enforced by all the contracting entities.

(4) Designate a responsible official to supervise the contracting entities' diverse business program and ensure compliance within the contracting entities.

(5) (Reserved).

(6) Impose sanctions, as may be appropriate under 62 Pa.C.S. § 531 (relating to debarment or suspension), against businesses that fail to comply with this section or the policies of the Commonwealth related to diverse businesses. This paragraph shall not apply to a local transportation organization.

(7) Ensure that each contract entered into with a contractor under this section includes provisions prohibiting discrimination in accordance with 62 Pa.C.S. § 3701 (relating to contract provisions prohibiting discrimination).

(a.1) Additional duties of department.--The department, with the assistance of a diverse business enterprise supportive services center, shall have the following duties:

(1) Conduct the necessary and appropriate outreach, including using the database available on the Internet website of the Department of General Services and the Federal Government's system of award management database, for purposes of identifying diverse businesses in general construction or professional services capable of performing contracts subject to this section.

(2) By October 1, 2014, and each October 1 thereafter, submit a report to the chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives summarizing the participation level of diverse businesses in all competitive contract opportunities issued by contracting entities. The commission and local transportation organizations shall cooperate with the department to complete the report. The report shall include:

(i) The percentage of participation by diverse businesses.

(ii) The total value of all contracts executed which include participation by diverse businesses pursuant to this section in the prior year.

(iii) The number of businesses penalized for violating this section.

(3) Transmit the report under paragraph (2) to the Pennsylvania Minority Business Development Authority, established under the act of July 22, 1974 (P.L.598, No.206), known as the Pennsylvania Minority Business Development Authority Act. The authority shall review the report to assess the effectiveness in advancing this section and to make any recommendations for changes in this section deemed necessary or desirable to the secretary and the chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives.

(a.2) Replacement of diverse business.--If, at any time during the evaluation of a bid or proposal or the construction of a project or the performance of a professional service pursuant to a bid, proposal or contract subject to this section, it becomes necessary to replace a subcontractor that is a diverse business, the bidder, offeror or contractor, as appropriate, shall immediately notify the contracting entity of the need to replace the diverse business. The notice shall include the reasons for the replacement.

(a.3) Applicability.--The following shall apply to a contractor and contract subject to subsection (a):

(1) The provisions of 62 Pa.C.S. § 2108 (relating to compliance with Federal requirements).

(2) Prompt payment policies between a contractor and subcontractor adopted by the Department of General Services pursuant to 62 Pa.C.S. Pt. II (relating to general procurement provisions).

(a.4) Construction.--Nothing in this section shall be construed to supersede, nullify or otherwise affect 51 Pa.C.S. § 9603 (relating to participation goal). In the case of an inconsistency between this section and 51 Pa.C.S. Ch. 96 (relating to veteran-owned small businesses), the provisions of 51 Pa.C.S. Ch. 96 shall prevail.

(b) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Commission." As defined in section 8102 (relating to definitions).

"Contract." As defined in 62 Pa.C.S. § 103 (relating to definitions).

"Contracting entities." The following:

(1) The department.

(2) The commission.

(3) A local transportation organization.

"Disadvantaged business." A business that is owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias.

"Diverse business." A disadvantaged business, minority-owned or women-owned business or service-disabled veteran-owned or veteran-owned small business that has been certified by a third-party certifying organization.

"Local transportation organization." Any of the following:

(1) A political subdivision or a public transportation authority, port authority or redevelopment authority organized under the laws of this Commonwealth or pursuant to an interstate compact or otherwise empowered to render, contract for the rendering of or assist in the rendering of transportation service in a limited area in this Commonwealth, even though it may also render or assist in rendering transportation service in adjacent states.

(2) A nonprofit association that directly or indirectly provides public transportation service.

(3) A nonprofit association of public transportation providers operating within this Commonwealth.

"Minority-owned business." A business owned and controlled by a majority of individuals who are African Americans, Hispanic Americans, Native Americans, Asian Americans, Alaskans or Pacific Islanders.

"Professional services." An industry of infrequent, technical or unique functions performed by independent contractors or consultants whose occupation is the rendering of the services. The term includes:

(1) Design professional services as defined in 62 Pa.C.S. § 901 (relating to definitions).

(2) Legal services.

(3) Advertising or public relations services.

(4) Accounting, auditing or actuarial services.

(5) Security consultant services.

(6) Computer and information technology services.

(7) Insurance underwriting services.

"Service-disabled veteran-owned small business." As defined in 51 Pa.C.S. § 9601 (relating to definitions).

"Third-party certifying organization." An organization that certifies a small business, minority-owned business, women-owned

business or veteran-owned small business as a diverse business. The term includes:

(1) The National Minority Supplier Development Council.

(2) The Women's Business Development Enterprise National Council.

(3) The Small Business Administration.

(4) The Department of Veterans Affairs.

(5) The Pennsylvania Unified Certification Program.

"Veteran-owned small business." As defined in 51 Pa.C.S. § 9601 (relating to definitions).

"Women-owned business." A business owned and controlled by a majority of individuals who are women.

(July 18, 2007, P.L.169, No.44, eff. imd.; Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

2013 Amendment. Section 43(1) of Act 89 provided that section 303 shall apply to competitive contract opportunities issued on or after July 1, 2014. See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Section 303 is referred to in section 3101 of Title 72 (Taxation and Fiscal Affairs).

PART II
PUBLIC TRANSPORTATION

Chapter

11. Preliminary Provisions
13. Public Transportation Assistance (Repealed)
15. Sustainable Mobility Options
17. Metropolitan Transportation Authorities
21. Multimodal Fund

Enactment. Part II was added August 5, 1991, P.L.238, No.26, effective immediately, unless otherwise noted.

CHAPTER 11
PRELIMINARY PROVISIONS

Sec.

1101. Short title of part.

Enactment. Chapter 11 was added August 5, 1991, P.L.238, No.26, effective immediately.

§ 1101. Short title of part.

This part shall be known and may be cited as the Public Transportation Law.

CHAPTER 13
PUBLIC TRANSPORTATION ASSISTANCE
(Repealed)

2007 Repeal. Chapter 13 (§§ 1301 - 1315) was added August 5, 1991, P.L.238, No.26, and repealed July 18, 2007, P.L.169, No.44, effective immediately and retroactive to July 1, 2007.

Special Provisions in Appendix. See sections 8 and 9 of Act 44 of 2007 in the appendix to this title for special provisions relating to continuation of prior financial assistance and funds appropriated and Public Transportation Assistance Fund.

CHAPTER 15
SUSTAINABLE MOBILITY OPTIONS

Sec.
1501. Scope of chapter.
1502. (Reserved).
1503. Definitions.
1504. Department authorization.
1505. Regulations.
1506. Fund.
1507. Application and approval process.
1508. Federal funding.
1509. Limitation on decisions, findings and regulations of department.
1510. Program oversight and administration.
1511. Report to Governor and General Assembly.
1512. Coordination and consolidation.
1513. Operating program.
1514. Asset improvement program.
1515. New initiatives program.
1516. Programs of Statewide significance.
1517. Capital improvements program.
1517.1. Alternative Energy Capital Investment Program.
1518. Program oversight and administration.
1519. Retroactive authority.
1520. Evaluation of private investment opportunities.

Enactment. Chapter 15 was added July 18, 2007, P.L.169, No.44, effective immediately and retroactive to July 1, 2007.

Prior Provisions. Former Chapter 15, which related to metropolitan transportation authorities, was added August 5, 1991, P.L.238, No.26, and repealed February 10, 1994, P.L.20, No.3, effective immediately. The subject matter is now contained in Chapter 17.

Cross References. Chapter 15 is referred to in section 8915.4 of Title 75 (Vehicles).

§ 1501. Scope of chapter.

This chapter relates to sustainable mobility options.

§ 1502. (Reserved).

§ 1503. Definitions.

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

"Access to jobs project." A project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment as defined under 49 U.S.C. § 5316 (relating to job access and reverse commute formula grants).

"Americans with Disabilities Act." The Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327).

"Asset maintenance costs." All vehicle maintenance expenses, nonvehicle maintenance and materials expenses and the cost of supplies used in the operation of local transportation organizations and transportation companies.

"Award recipient." A recipient of financial assistance under this chapter.

"Base operating allocation." The total amount of State operating assistance, reimbursement in lieu of fares for senior passengers and other assistance which was used for operating

assistance as determined by the department in the last full fiscal year that the qualifying local transportation organization received the assistance, including the funds received under section 1517.1(c) (relating to Alternative Energy Capital Investment Program).

"Capital expenditures." All costs of capital projects, including, but not limited to, the costs of acquisition, construction, installation, start-up of operations, improvements and all work and materials incident thereto. Preventive maintenance expenses, as defined by the Federal Transit Administration, may be deemed eligible as a capital expenditure based on written approval by the department at its discretion.

"Capital project." A system or component of a system for the provision of public passenger transportation. The term includes vehicles; infrastructure power; passenger amenities; storage and maintenance buildings; parking facilities; the land on which any capital project is situated and the land needed to support it, whether owned in whole or in part; overhaul of vehicles; debt service; and the cost of issuance of bonds, notes and other evidences of indebtedness which a local transportation organization or transportation company is permitted to issue under any law of this Commonwealth.

"Commonwealth capital bonds." Evidence of debt incurred by the Commonwealth under the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act.

"Community transportation service" or **"shared ride service."** Door-to-door demand transportation that is available to the general public on a nonexclusive basis, operates on a nonfixed route basis and charges a fare to all riders. The term does not include exclusive ride taxi service, charter and sightseeing service, nonpublic transportation, school bus and limousine service.

"Community transportation system." A person that provides community transportation service and contracts with the Department of Transportation to receive revenue replacement funds.

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

"Financial assistance." Grants or other types of financial support provided by the Department of Transportation under this chapter.

"Fixed guideway system." A fixed-route public transportation service that uses and occupies a separate right-of-way or rail line for the exclusive use of public transportation and other high-occupancy vehicles or uses a fixed catenary system and a right-of-way usable by other forms of transportation. The term includes light rail, commuter rail, automated guideway transit, people movers, ferry boat service and fixed guideway facilities for buses such as bus rapid transit and high-occupancy vehicles.

"Fixed-route public transportation service." Regularly scheduled general public transportation that is provided according to published schedules along designated routes, with specified stopping points for the taking on and discharging of passengers, including public bus and commuter rail systems and other department-approved service. The term does not include exclusive ride taxi service, charter or sightseeing service, nonpublic transportation, school bus and limousine service.

"Fund." The Public Transportation Trust Fund established under section 1506 (relating to fund).

"Intercity bus service." Passenger bus service of 35 miles or more in length that is provided with an over-the-road bus and operated between two noncontiguous urbanized areas, between

an urbanized area located in one county and rural communities located in another county, or between rural communities located in different counties and contains all of the following elements:

(1) Service that is operated for a fare on a regularly scheduled fixed-route basis.

(2) Service that is offered to and utilized by the general public without preconditions of advance reservation or membership in a particular organization.

"Intercity passenger rail service." Passenger railroad service that connects two or more urbanized areas and is determined by the Department of Transportation to qualify as intercity service rather than commuter rail service.

"Job access and reverse commute project." A project funded by the Federal Transit Administration under Federal law.

"Local transportation organization." Any of the following:

(1) A political subdivision or a public transportation authority, port authority or redevelopment authority, organized under the laws of this Commonwealth or pursuant to an interstate compact or otherwise empowered to render, contract for the rendering or assist in the rendering of transportation service in a limited area in this Commonwealth, even though it may also render or assist in rendering transportation service in adjacent states.

(2) A nonprofit association that directly or indirectly provides public transportation service.

(3) A nonprofit association of public transportation providers operating within this Commonwealth.

"Materials and supplies." Those categories of expenses as specified in Uniform System of Accounts expense object class 504, National Transit Database operating expenses form F 30, National Transit Database, Final Rule, Federal Transit Administration, dated January 15, 1993, or any successor.

"New fixed guideway system." A newly constructed fixed guideway system in a corridor or alignment where no such system previously existed.

"New Freedom Program." A public transportation program designed to provide funds to recipients for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services administered under the provisions of 49 U.S.C. § 5317 (relating to New Freedom Program).

"New start." The term shall have the same meaning given it in 49 CFR § 611.5 (relating to definitions).

"Nonurbanized area." An area within this Commonwealth that does not fall within an area classified as "urbanized" by the United States Bureau of the Census of the United States Department of Commerce in the most recent Census of Population.

"Nonvehicle maintenance expenses." The categories of costs associated with the inspection, maintenance and repair of assets, other than vehicles, as specified in Uniform System of Accounts, expense function 042, National Transit Database operating expenses form F 30, National Transit Database, Final Rule, Federal Transit Administration, dated January 15, 1993, or any successor.

"Operating expenses." Total expenses required to continue service to the public and to permit needed improvements in service which are not self-supporting and otherwise for any purpose in furtherance of public passenger transportation,

including all State asset maintenance costs. The term does not include expenditures for capital projects unless specific approval is provided by the Department of Transportation.

"Operating revenue." The total revenue earned by a local transportation organization or a transportation company through its transit operations. The term includes all of the following:

(1) Passenger fares.

(2) Reimbursements provided in lieu of fares for senior passengers.

(3) Charter, school bus and advertising revenue.

(4) Other miscellaneous revenue such as public and private route guarantee funds.

"Paratransit service." Transit service operating on a nonfixed-route basis in order to provide complementary transportation service to persons who are functionally unable to use fixed-route public transportation service as required by the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327).

"Passengers." The total of all originating passengers plus transfer passengers carried on fixed-route public transportation service and paratransit service with respect to the most recent fiscal year as reported in the most recent Public Passenger Transportation Performance Report.

"Public passenger transportation." Transportation within an area that includes a municipality or other built-up place that is appropriate in the judgment of the Department of Transportation to serve commuters or others in the locality, taking into consideration the local patterns and trends of growth by bus or rail or other conveyance, either publicly or privately owned, serving the general public. The term does not include school buses or charter or sightseeing services.

"Public Passenger Transportation Performance Report." An annual report completed by the Department of Transportation which shall include all of the following:

(1) Each local transportation organization's passengers, revenue vehicle miles, revenue vehicle hours and senior passengers statistics for the most recently available fiscal year.

(2) Any other statistical information that the Department of Transportation deems necessary.

"Revenue replacement funds." Payments made to local transportation organizations and transportation companies to offset or partially offset fares.

"Revenue vehicle hours." The total amount of time calculated in hours during which vehicles are in service and available for public use in fixed-route public transportation service or paratransit service with respect to the most recent fiscal year as reported in the most recent Public Passenger Transportation Performance Report. The term does not include deadhead hours.

"Revenue vehicle miles." The total amount of distance calculated in miles during which vehicles are in service and available for public use in fixed-route public transportation service or paratransit service with respect to the most recent fiscal year as reported in the most recent Public Passenger Transportation Performance Report. The term does not include deadhead miles.

"Reverse commute project." A public transportation project designed to transport residents of urbanized and nonurbanized areas to suburban employment opportunities as defined under 49 U.S.C. § 5316 (relating to job access and reverse commute formula grants).

"Secretary." The Secretary of Transportation of the Commonwealth.

"Senior citizen." A person who is at least 65 years of age.

"Senior passenger." A senior citizen who rides on fixed-route service.

"Senior passengers." The number of senior passengers transported by a local transportation organization with respect to the most recent fiscal year as reported in the most recent Public Passenger Transportation Performance Report.

"Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Transportation company." A person that renders public passenger transportation service.

"Urbanized area." A portion of this Commonwealth classified as urbanized by the United States Bureau of the Census of the United States Department of Commerce in the most recent Census of Population.

"Vehicle maintenance expenses." The categories of costs associated with the inspection, maintenance and repair of vehicles as specified in Uniform System of Accounts, Expense Function 041, National Transit Database operating expenses form F 30, National Transit Database, Final Rule, Federal Transit Administration, dated January 15, 1993, or any successor.

"Welfare-to-work." Any Federal or State program designed to move individuals from dependency on public welfare programs to self-sufficiency through paid work.

(Nov. 25, 2013, P.L.974, No.89, eff. July 1, 2014)

2013 Amendment. Act 89 amended the defs. of "base operating allocation" and "capital expenditures." See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 1504. Department authorization.

(a) General.--

(1) The department may, within the limitations provided in this chapter, incur costs directly and provide financial assistance for the purposes and activities enumerated in this chapter.

(2) In the event of imminent service termination, the department shall make every effort to contract with a local transportation organization to provide the programs, activities and services enumerated in this chapter. After all local transportation organization contracting options are exhausted, the department may contract with a transportation company to provide the programs, activities and services enumerated in this chapter. The operation of the programs, activities and services administered by the department and provided by the local transportation organization or transportation company under this subsection shall not be subject to the jurisdiction of the Pennsylvania Public Utility Commission.

(b) Supplementation of Federal and local funds.--The authority conferred on the department by this chapter includes providing financial assistance for public passenger transportation purposes and supplementing Federal funding or local funding or both.

(Nov. 25, 2013, P.L.974, No.89, eff. imd.)

2013 Amendment. Act 89 amended subsec. (a). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 1505. Regulations.

(a) General rule.--To effectuate and enforce the provisions of this chapter, the department shall promulgate necessary rules and regulations and prescribe conditions and procedures in order to assure compliance in carrying out the purposes for which financial assistance may be provided under this chapter.

(b) Temporary regulations.--

(1) Unless otherwise provided in this chapter, in order to facilitate the prompt implementation of this chapter, during the two-year period following the effective date of this section, the department shall promulgate temporary regulations which shall expire four years from the effective date of this section. The temporary regulations shall be exempt from the following:

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

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

(2) The authority of the department to promulgate temporary regulations under this subsection shall expire two years from the effective date of this section. Regulations adopted after the two-year period shall be promulgated as provided by statute.

§ 1506. Fund.

(a) Establishment.--A special fund is established within the State Treasury to be known as the Public Transportation Trust Fund. Money in the fund is hereby appropriated, upon approval of the Governor, to the department for the purposes set forth under this chapter.

(b) Deposits to fund by department.--

(1) The following apply:

(i) Upon receipt, the department shall deposit into the fund the revenues received by the department under 75 Pa.C.S. Ch. 89 (relating to Pennsylvania Turnpike) and the lease agreement executed between the department and the Pennsylvania Turnpike Commission under 75 Pa.C.S. § 8915.3 (relating to lease of Interstate 80; related agreements).

(ii) The deposits made to the fund under this subsection shall equal $450,000,000 annually for each fiscal year for fiscal years 2014-2015 through 2021-2022.

(iii) The deposits made to the fund under this subsection shall equal $50,000,000 annually for fiscal year 2022-2023 and each fiscal year thereafter.

(2) Upon receipt, the department shall deposit the amount made available to the department as an executive authorization and any appropriation for the 2007-2008 fiscal year and each fiscal year thereafter from the State Lottery Fund for fixed route transit and for the Free Transit Program for Senior Citizens established under the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law. The funds deposited under this paragraph shall only be used as permitted by the State Lottery Law, except that:

(i) funds may be used to pay estimated transit losses resulting from providing free service for senior passengers during the provider's regular hours of service; and

(ii) fares for senior citizens on commuter rail service shall be limited to $1 per trip and shall be extended to all hours of commuter rail service.

(c) Other deposits.--The following shall be deposited into the fund annually:

(1) 4.4% of the amount collected under Article II of the Tax Reform Code. Revenues under this paragraph shall be deposited into the fund by the 20th day of each month for the preceding month. The amount deposited under this paragraph is estimated to be equivalent to the money available to the department from the following sources:

(i) The Supplemental Public Transportation Account established under former section 1310.1 (relating to supplemental public transportation assistance funding).

(ii) The amount appropriated annually by the Commonwealth from the General Fund for mass transit programs pursuant to a General Appropriations Act.

(2) An amount of proceeds of Commonwealth capital bonds as determined annually by the Secretary of the Budget.

(3) Revenue in the Public Transportation Assistance Fund established under Article XXIII of the Tax Reform Code not otherwise dedicated pursuant to law.

(3.1) (Reserved).

(3.2) The revenues deposited in the fund in accordance with 75 Pa.C.S. § 1786 (relating to required financial responsibility).

(3.3) The revenues deposited in the fund in accordance with 75 Pa.C.S. § 3111(a.1)(2)(ii) (relating to obedience to traffic-control devices).

(3.4) For fiscal year 2022-2023 and each fiscal year thereafter, an amount equal to the amount collected under Article II of the Tax Reform Code, multiplied by the ratio that $450,000,000 is to the total amount collected under Article II of the Tax Reform Code in the fiscal year ending June 30, 2021, or $450,000,000, whichever is greater, shall be transferred to the fund. The source of the transfer shall be the revenue collected under section 238 of the Tax Reform Code on motor vehicles, trailers and semi-trailers.

(4) Other appropriations, deposits or transfers to the fund.

(d) Use of revenues.--Money in the fund shall be used by the department as follows:

(1) to provide financial assistance through the programs established under this chapter;

(2) for costs incurred directly by the department in the administration of public passenger transportation programs, including under this chapter; and

(3) for all other purposes enumerated under this chapter.

(e) Program funding amounts.--Subject to available funds, the programs established under this chapter shall be funded annually as follows:

(1) For the program established under section 1513 (relating to operating program), the following amounts shall be allocated from the fund:

(i) From the revenues deposited in the fund under subsection (b)(1):

(A) For fiscal year 2013-2014, $209,000,000 and for fiscal year 2014-2015, $187,000,000.

(B) For fiscal years 2015-2016 and 2016-2017, $110,000,000.

(C) For fiscal years 2017-2018 and each fiscal year thereafter, $25,000,000.

(ii) All revenues deposited in the fund under subsection (b)(2).

(iii) 86.76% of the revenues deposited in the fund under subsection (c)(1).

(iv) All revenues deposited into the fund under subsection (c)(3).

(v) The following percentages of the revenue deposited in the fund in accordance with 75 Pa.C.S. § 1904 (relating to collection and disposition of fees and moneys):

(A) For fiscal year 2013-2014, 5.8%.

(A.1) For fiscal year 2014-2015, 8.8%.

(B) For fiscal years 2015-2016 and 2016-2017, 46.6%.

(C) For fiscal year 2017-2018 and each fiscal year thereafter, 69.3%.

(vi) All revenue deposited into the fund under subsection (c)(3.2).

(vii) Twenty-five million dollars from the revenue deposited into the fund under subsection (c)(3.4).

(2) For the program established under section 1514 (relating to asset improvement program):

(i) By the proceeds of Commonwealth capital bonds deposited into the fund under subsection (c)(2).

(ii) Ninety-five percent of the remaining revenue deposited in the fund under subsection (b)(1) and (c)(3.4), after the transfer of $30,000,000 to the Multimodal Transportation Fund under paragraph (6).

(iii) The revenue deposited in the fund under subsection (c)(3.3).

(iv) The following percentages of revenue deposited in the fund in accordance with 75 Pa.C.S. § 1904:

(A) For fiscal year 2013-2014, 28.1%.

(B) For fiscal year 2014-2015, 35.1%.

(C) For fiscal years 2015-2016 and 2016-2017, 20%.

(D) For fiscal year 2017-2018 and each fiscal year thereafter, 7.7%.

(3) For the program established under section 1516 (relating to programs of Statewide significance):

(i) 13.24% of the revenues deposited in the fund under subsection (c)(1).

(ii) The revenue deposited in the fund under subsection (b)(1) and (c)(3.4) remaining after the allocation under paragraph (2)(ii).

(4) (Deleted by amendment).

(5) For the program established under section 1517.1 (relating to Alternative Energy Capital Investment Program), no more than $60,000,000 of the revenue deposited in the fund under subsection (c) may be allocated from the fund.

(6) Thirty million dollars of the revenue deposited in the fund under subsection (b)(1) and (c)(3.4) shall be transferred to the Multimodal Transportation Fund.

(Nov. 25, 2013, P.L.974, No.89)

2013 Amendment. Act 89 amended subsecs. (b)(1), (c) and (e), effective immediately as to subsecs. (c) and (e)(1)(i), (vi) and (vii), (2), (3) and (5), January 1, 2014, as to subsec. (e)(1)(iii) and (v) and (4), July 1, 2014, as to subsecs. (b) and (e)(6) and 60 days as to the remainder of the section. See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Section 1506 is referred to in sections 1503, 1513, 1515 of this title; section 8915.4 of Title 75 (Vehicles).

§ 1507. Application and approval process.

(a) Application.--An eligible applicant that wishes to receive financial assistance under this chapter shall submit a written application to the department on a form developed by the department, which shall include the following:

(1) The name and address of the applicant.

(2) The name and telephone number of a contact person for the applicant.

(3) The amount and type of financial assistance requested and the proposed use of the funds.

(4) A statement as to the particular need for the financial assistance.

(5) A certified copy of a current resolution authorizing submission of the application if the applicant is a governing body.

(6) Evidence satisfactory to the department of the commitment for matching funds required under this chapter sufficient to match the projected financial assistance payments, provided no later than June 30 of the applicable fiscal year. If the evidence required under this paragraph is not provided to the satisfaction of the department, subsequent funding under section 1513 (relating to operating program) shall be withheld until the applicant meets the requirements of this paragraph.

(6.1) A statement of policy outlining the basic principles for the adjustment of fare growth to meet the rate of inflation.

(7) Any other information the department deems necessary or desirable.

(b) Approval and award.--Upon determining that an applicant has complied with this chapter, applicable rules and regulations and any other requirement with respect to the financial assistance requested, the department may award financial assistance to the applicant. If the department awards financial assistance to the applicant, the department and the applicant shall enter into a financial assistance agreement setting forth the terms and conditions governing the use of the financial assistance and the timing of payment of the funds. The department shall develop guidelines for the application for and awarding of financial assistance under this chapter and shall forward them to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(c) Restriction on use of funds.--Unless the department grants the award recipient a waiver allowing the funds to be used for a different purpose, financial assistance under this chapter shall be used only for activities set forth under the financial assistance agreement. The department's regulations shall describe circumstances under which it will consider waiver requests and shall set forth all information to be included in a waiver request. The waiver request shall include a plan of corrective action to demonstrate that the award recipient does not have an ongoing need to use financial assistance funds for activities other than those for which funds were originally awarded. The duration of the waiver may not exceed the duration of the plan of corrective action. The department shall monitor implementation of the plan of corrective action. If the plan of corrective action is not implemented by the local transportation organization, the department shall rescind the waiver approval.

(Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

2013 Amendment. Act 89 amended subsecs. (a)(6) and (c) and added subsec. (a)(6.1). See the preamble to Act 89 in the

appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Section 1507 is referred to in sections 1513, 1514, 1515, 1516, 1517 of this title.

§ 1508. Federal funding.

(a) General rule.--The department shall administer the programs established under this chapter in a manner that permits full cooperation between Federal, State and local governments, agencies and instrumentalities, local transportation organizations and private interests, so as to result in as effective and economical a program as possible.

(b) Agreements.--The department may enter into agreements for mutual cooperation between or among the department and a Federal agency, local transportation organization or transportation company concerning a project to be funded with financial assistance under this chapter, including joint applications for Federal grants.

(c) General authority of department.--The department may do anything necessary or desirable to secure financial aid or cooperation of a Federal agency for a project funded with financial assistance under this chapter and to comply with a Federal statute or lawful requirement of a Federal agency authorized to administer a program of Federal aid to transportation. The department may enter into a protective agreement with organized labor to the extent required under 49 U.S.C. § 5333 (relating to labor standards) in order to obtain Federal grant money for transportation assistance. Protective agreements shall be narrowly drawn and strictly construed to provide no more than the minimum protections required by the United States Department of Labor for the agreements.

(d) Direct recipients.--Local transportation organizations that are direct recipients of Federal funding shall be under no obligation to enter into contracts with the department for expenditure of those funds, except that the department may require a contract for expenditure of the State portion of the project assisted by those Federal funds.

§ 1509. Limitation on decisions, findings and regulations of department.

All decisions, findings and regulations made by the department pursuant to this chapter shall be for the purposes of this chapter only and shall not constitute evidence before a regulatory body of this Commonwealth or any other jurisdiction.

§ 1510. Program oversight and administration.

(a) Review and oversight.--The department shall initiate and maintain a program of financial and performance review and oversight for all programs receiving financial assistance under this chapter. The department may perform independent financial audits of each award recipient to ensure compliance by award recipients with this chapter, department regulations and policies and financial assistance agreements. Audits shall be conducted in accordance with generally accepted auditing standards.

(b) State Rail Transit Safety Inspection Program.--The department may conduct a State Rail Transit Safety Inspection Program, as may be defined from time to time by the Federal Transit Administration, to meet oversight requirements of the Federal Transit Administration. The public transportation modes covered shall include heavy rail, light rail, trackless trolley bus and inclined plane services and related facilities.

Cross References. Section 1510 is referred to in section 1516 of this title.

§ 1511. Report to Governor and General Assembly.

The department shall submit a public passenger transportation performance report to the Governor and the General Assembly by April 30 of each year, covering the prior fiscal year.
(Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

2013 Amendment. See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 1512. Coordination and consolidation.

(a) Coordination.--Coordination is required in regions where two or more award recipients have services or activities for which financial assistance is being provided under this chapter to assure that the services or activities are provided efficiently and effectively.

(b) Consolidation and mutual cooperation.--

(1) The department, in consultation with local governments and local transportation organizations, shall study the feasibility of consolidation and mutual cooperation among local transportation organizations as a means of reducing annual expenses without loss of service to the communities they serve. The study shall examine the creation of service regions or mutual cooperation pacts to determine whether either method would reduce annual expenses. The feasibility analysis is to include a cost-benefit analysis and operational analysis.

(2) If the results of a feasibility analysis under paragraph (1) estimate an annual net savings at the time of completion of the study, the local transportation organization and local government may implement the recommended action.

(3) The department shall waive the match requirement under sections 1513 (relating to operating program) and 1514 (relating to asset improvement program) for five fiscal years for the local transportation organization's participation in the recommended action under paragraph (2) in an amount not to exceed the estimated annual net savings of the implemented recommendations.

(c) Funding for merger and consolidation incentives and mutual cooperation pacts.--A capital project that is needed to support a local transportation organization that has agreed to merge and consolidate operations and administration or share facilities or staff through a mutual cooperation pact to achieve cost and service efficiencies shall be eligible for financial assistance under this chapter. The application for financial assistance must do all of the following:

(1) Identify the efficiencies in a merger and consolidation plan or mutual cooperation pact.

(2) Include the expected net dollar savings that will result from the merger, consolidation or pact.
(Nov. 25, 2013, P.L.974, No.89, eff. imd.)

2013 Amendment. Section 43(2) of Act 89 provided that section 1512 shall apply to feasibility studies performed prior to or after the effective date of section 43. See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 1513. Operating program.

(a) Eligible applicants.--The following may apply for financial assistance for operating expenses under this section:

(1) The governing body of a municipality or an instrumentality of a municipality.

(2) A Commonwealth agency or instrumentality.

(3) A local transportation organization.

(b) Applications.--In addition to information required under section 1507 (relating to application and approval process), an application for financial assistance under this section shall include the applicant's reasonable estimates of operating revenue and government subsidies sufficient to cover all projected operating expenses.

(c) Distribution formula.--

(1) No later than 15 business days after the effective date of this section, the department shall forward to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin the base operating allocation for each local transportation organization.

(1.1) For purposes of determining the amount of assistance available for distribution under this subsection, in addition to the amounts allocated under section 1506(e)(1)(relating to fund), an amount equal to the revenue in the Public Transportation Assistance Fund dedicated pursuant to law shall be included.

(2) For fiscal year 2007-2008 and each fiscal year thereafter, each qualifying local transportation organization shall receive financial assistance which shall consist of the following:

(i) Its base operating allocation multiplied by 1.0506.

(ii) An additional amount which shall be allocated based on the following distribution formula:

(A) Twenty-five percent of the award amount shall be based on the number of passengers. The actual amount received by each local transportation organization under this clause shall be calculated as follows:

(I) Multiply the total amount of funding available for distribution under this paragraph by 0.25.

(II) Multiply the product under subclause (I) by the local transportation organization's number of passengers.

(III) Divide the product under subclause (II) by the total number of passengers for all local transportation organizations.

(B) Ten percent of the award amount shall be based on the number of senior passengers to offset free fares for senior passengers. The actual amount received by each local transportation organization under this clause shall be calculated as follows:

(I) Multiply the total amount of funding available for distribution under this paragraph by 0.10.

(II) Multiply the product under subclause (I) by the local transportation organization's number of senior passengers.

(III) Divide the product under subclause (II) by the total number of senior passengers for all local transportation organizations.

(C) Thirty-five percent of the award amount shall be based on the number of revenue vehicle hours. The actual amount received by each local

transportation organization under this clause shall be calculated as follows:

(I) Multiply the total amount of funding available for distribution under this paragraph by 0.35.

(II) Multiply the product under subclause (I) by the local transportation organization's number of revenue vehicle hours.

(III) Divide the product under subclause (II) by the total of the revenue vehicle hours for all local transportation organizations.

(D) Thirty percent of the award amount shall be based on the number of revenue vehicle miles. The actual amount received by each local transportation organization under this clause shall be calculated as follows:

(I) Multiply the total amount of funding available for distribution under this paragraph by 0.30.

(II) Multiply the product under subclause (I) by the local transportation organization's number of revenue vehicle miles.

(III) Divide the product under subclause (II) by the total number of revenue vehicle miles for all local transportation organizations.

(3) For the 2007-2008 fiscal year, no local transportation organization shall receive total financial assistance under this subsection that would be more than 50% higher than the amount it receives under paragraph (2)(i). For each subsequent fiscal year, the increase in the total financial assistance provided to each local transportation organization shall not exceed 20% of the prior year allocation.

(c.1) Minimum.--No local transportation organization shall receive financial assistance under this section in an amount less than the amount received in the previous fiscal year.

(d) Local match requirements.--

(1) For fiscal year 2007-2008 and each fiscal year thereafter, except as provided under paragraph (2), financial assistance provided under this section shall be matched by local or private cash funding in an amount not less than the greater of:

(i) 15% of the amount of the financial assistance being provided; or

(ii) the amount required under former section 1311(d) (relating to use of funds distributed) for fiscal year 2006-2007.

(2) Beginning in fiscal year 2007-2008 and each fiscal year thereafter, if the local matching funds provided are less than 15% of the amount of financial assistance received, the local transportation organization's required local matching funds shall increase annually in order to meet the 15% requirement set forth under paragraph (1)(i). The local matching funds shall be increased annually by a minimum of 5% above the amount of local matching funds provided in the previous fiscal year unless a lesser amount is necessary to meet the 15% requirement set forth under paragraph (1)(i).

(3) Eligible local matching funds shall consist only of cash contributions provided by one or more municipalities or counties. The amount of the match and the time period during which the match must continue to be available shall be specified in the financial assistance agreement. Funding

provided by local and private entities, including advertising or naming rights, may qualify as local matching funds to the extent they provide for the cost of transit service that is open to the public. The following shall not be considered local matching funds:

(i) Any form of transit operating revenue or other forms of transit income provided by the local transportation organization.

(ii) Funds used to replace fares.

(4) A municipality in a metropolitan area which is a member of a local transportation organization is authorized to provide annual financial assistance from current revenues to the local transportation organization of which it is a member or enter into a long-term agreement for payment of money to assist in defraying the costs of operation, maintenance and debt service of the local transportation organization or of a particular public transportation project of a local transportation organization. The obligation of a municipality under an agreement pursuant to this paragraph shall not be considered to be a part of the indebtedness of the municipality, nor shall the obligation be deemed to impair the status of any indebtedness of the municipality which would otherwise be considered self-sustaining.

(e) Performance reviews.--

(1) The department may conduct performance reviews of an award recipient under this section to determine the effectiveness of the financial assistance. Reviews shall be conducted at regular intervals as established by the department in consultation with the management of the award recipient. After completion of a review, the department shall issue a report that:

(i) highlights exceptional performance and identifies any problems that need to be resolved;

(ii) assesses performance, efficiency and effectiveness of the use of the financial assistance;

(iii) makes recommendations on follow-up actions required to remedy any problem identified; and

(iv) provides an action plan documenting who should perform the recommended actions and a time frame within which they should be performed.

(2) The department shall deliver the report to the Governor, to the chairman and minority chairman of the Transportation Committee of the Senate and to the chairman and minority chairman of the Transportation Committee of the House of Representatives. The department's regulations shall contain a description of the impact on both the amount of, and future eligibility for, financial assistance under this chapter based upon the degree to which the local transportation organization complies with the recommendations in the report. The department shall develop a list of best practices revealed by the reports issued under this subsection and shall post them on the department's Internet website.

(f) Performance criteria.--Criteria used for the reviews conducted under subsection (e) shall consist of passengers per revenue vehicle hour, operating costs per revenue vehicle hour, operating revenue per revenue vehicle hour, operating costs per passenger and other items as the department may establish. The department's regulations shall set forth the minimum system performance criteria based upon comparison of the award recipient to its past performance and to its peers that an award recipient must satisfy.

(g) Failure to satisfy minimum performance criteria.--

(1) If a performance review conducted under subsection (e) reveals that the performance of an award recipient's transportation system has decreased compared to performance determined through a prior review, the department may, upon the written request of an award recipient, waive any requirement for a reduction in the amount of financial assistance to be awarded under this section for a reasonable time period to allow the award recipient to bring the system back to the required performance level. The award recipient shall provide written justification for providing a time period longer than two years. In order to obtain the waiver for the period requested, the award recipient must do all of the following:

(i) Develop an action plan to improve system performance that contains key measurable milestones. The action plan must be acceptable to the department and must be approved by the department in writing.

(ii) Submit quarterly progress reports on the action plan to the department.

(2) The department shall review and evaluate the award recipient's progress to determine if the system has improved. If the system has improved, the award recipient will remain eligible for full formula funding as determined under subsection (c). If the system has not improved by the end of the waiver period, the waiver will be withdrawn. Expenses incurred by the award recipient as a result of the failure of the award recipient's system to meet the minimum performance criteria shall be borne by the award recipient.

(h) Adjustments to minimum performance criteria.--Upon written request of an award recipient, the department may adjust the minimum performance criteria described in subsection (g) in a given year if the performance of the award recipient's system is adversely affected by circumstances which are beyond the award recipient's control. Examples are labor strikes, infrastructure failures and natural disasters. The request must include the award recipient's reasons for seeking the adjustment.

Cross References. Section 1513 is referred to in sections 1506, 1507, 1512, 1514, 1515, 1516, 1517.1 of this title.

§ 1514. Asset improvement program.

(a) Eligible applicants.--

(1) The following may apply for financial assistance for improvement, replacement or expansion of capital projects under this section:

(i) A local transportation organization.

(ii) An agency or instrumentality of the Commonwealth.

(iii) A person responsible for coordinating community transportation program services.

(iv) Any other person the department deems to be eligible.

(2) The department shall develop and maintain four-year and 12-year plans that summarize the capital projects and financial assistance commitments for each applicant. The department may enter into multiyear agreements to provide financial assistance for capital projects based upon cash flow and revenue projections for the fund. Each capital project shall be based on the plan developed by the department.

(b) Applications.--In addition to information required under section 1507 (relating to application and approval process), an application for financial assistance under this section shall include the following:

(1) Evidence satisfactory to the department that the proposed capital project is included in the first year of the applicant's four-year capital plan and its federally approved transportation improvement program.

(2) If an applicant is requesting financial assistance for replacement of a capital project, evidence satisfactory to the department that the capital project to be replaced has exceeded the useful life criteria as defined by the department. At its discretion, the department may approve funding to replace a capital project that does not exceed the useful life criteria if the applicant provides documentation acceptable to the department to justify the early replacement of the capital project.

(3) If the applicant is requesting financial assistance for expansion of a capital project, evidence satisfactory to the department that the applicant will have sufficient future annual operating funds to support the proposed expansion.

(4) Any other information required by the department, including a return on investment analysis or a life cycle cost analysis, or both.

(c) Local match requirements.--

(1) Financial assistance under this section shall be matched by local or private cash funding in an amount not less than 3.33% of the amount of the financial assistance being provided. The source of funds for the local match shall be subject to the requirements of section 1513(d)(3) (relating to operating program).

(2) The secretary may waive up to 75% of the local match required under paragraph (1) upon the written request of an applicant accompanied by the applicant's justification for the waiver.

(d) Conditions for receipt of bond funding.--Financial assistance that is funded by proceeds of Commonwealth capital bonds may be provided to an applicant if all of the following conditions are met:

(1) The applicant's capital project has been authorized by a capital budget project itemization act.

(2) The applicant's capital project was included in the department's approved annual release request approving the use of the funds for the proposed capital project in the fiscal year in which the funds are expected to be expended.

(3) The department has approved the underlying application for the capital project.

(e) Priorities.--The award of financial assistance under this section shall be subject to the following set of priorities in descending order of significance unless a compelling return on investment analysis for a project in a lower category is provided to and approved by the department:

(1) Requests for funds required to support existing local bond issues currently supported with State revenue sources, such as debt service and asset leases. The Commonwealth pledges to and agrees with any person, firm or corporation holding any bonds previously issued by, or any other debt incurred by, a local transportation organization and secured in whole or part by a pledge of the funds provided to the local transportation organization from the fund that the Commonwealth will not limit or alter rights

vested in a local transportation organization in any manner inconsistent with obligations of the local transportation organization to the obligees of the local transportation organization until all bonds previously issued or other debt incurred, together with the interest thereon, is fully paid or provided for.

(2) Requests for funds required to match federally approved capital projects funded under 49 U.S.C. §§ 5307 (relating to urbanized area formula grants) and 5309 (relating to capital investment grants and loans) and other federally approved capital projects.

(3) Other non-Federal capital projects as determined by the department, which shall be further subject to the following set of priorities in descending order of significance:

(i) Essential emergency asset improvement projects.

(ii) Standard replacement of existing assets that have exceeded their useful life.

(iii) Asset improvement projects to extend the useful life of the affected assets.

(iv) Acquisition of new assets and other acceptable purposes, other than projects to be funded under the new initiatives program described in section 1515 (relating to new initiatives program), as determined by the department.

(e.1) Distribution.--The department shall allocate financial assistance under this section on a percentage basis of available funds each fiscal year as follows:

(1) The local transportation organization organized and existing under Chapter 17 (relating to metropolitan transportation authorities) as the primary provider of public passenger transportation for the counties of Bucks, Chester, Delaware, Montgomery and Philadelphia shall receive 69.4% of the funds available for distribution under this section.

(2) The local transportation organization organized and existing under the act of April 6, 1956 (1955 P.L.1414, No.465), known as the Second Class County Port Authority Act, as the primary provider of public transportation for the county of Allegheny shall receive 22.6% of the funds available for distribution under this section.

(3) Other local transportation organizations organized and existing as the primary providers of public passenger transportation for the counties of this Commonwealth not identified under paragraph (1) or (2) shall receive 8% of the funds available for distribution under this section. The department shall allocate the funds under this paragraph among the local transportation organizations.

(4) Notwithstanding paragraphs (1), (2) and (3) and before distributing the funds under paragraph (1), (2) or (3), the department shall set aside 5% of the funds available for distribution under this section for discretionary use and distribution by the secretary.

(f) Bonding by award recipients.--With the approval of the department, an award recipient that is permitted by law to issue bonds may do so for the purpose of financing a multiyear capital project. The department shall enter into an agreement with the award recipient providing that payments of the awarded funds sufficient to satisfy requirements of the bonds issued be made directly to the trustee of the bondholders until such time as the bonds are retired.

(Nov. 25, 2013, P.L.974, No.89, eff. imd.)

2013 Amendment. Act 89 amended subsec. (c) and added subsec. (e.1). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Section 1514 is referred to in sections 1506, 1512, 1515 of this title.

§ 1515. New initiatives program.

(a) Eligible applicants.--Persons eligible to apply for financial assistance under section 1514 (relating to asset improvement program) shall also be eligible to apply for financial assistance for new or expansions of fixed guideway systems under this section.

(b) Applications.--In addition to the information required under section 1507 (relating to application and approval process), an application for financial assistance under this section shall include all of the information required in an application for financial assistance under section 1514. If the application is for a proposed expansion of a capital project, the application shall also include evidence satisfactory to the department that the applicant will have sufficient future annual operating funds to support the proposed expansion.

(c) Source of funds and priorities.--

(1) Sums allocated for the asset improvement program under section 1506(e)(2) (relating to fund), up to a maximum of $50,000,000 annually, may be used by the department to provide financial assistance under this section.

(2) In awarding financial assistance under this section, the department shall give priority to applicants that intend to use the funds to satisfy the local matching portion of federally approved New Starts projects funded pursuant to 49 U.S.C. § 5309 (relating to capital investment grants and loans). The department may fund projects that do not receive funding from the Federal New Starts Program if the applicant can provide sufficient evidence that the project can meet all of the following requirements:

(i) Investments in existing service areas have been optimized.

(ii) An analysis reveals a reasonable return on investment.

(iii) The public benefit of the project has been identified.

(iv) There exists a local dedicated funding commitment to pay any required local match for the project and ongoing operating costs.

(v) There exists local technical ability and capacity to manage, construct and operate the project.

(vi) The project is supported by the adoption of an integrated land use plan by local municipalities.

(d) Local match requirement.--Financial assistance under this section shall be matched by local or private cash funding in an amount not less than 3.33% of the amount of the financial assistance being provided. The source of funds for this local match shall be subject to the requirements of section 1513(d)(3) (relating to operating program).

Cross References. Section 1515 is referred to in section 1514 of this title.

§ 1516. Programs of Statewide significance.

(a) General rule.--Money in the fund allocated for programs of Statewide significance shall be used by the department to support public transportation programs, activities and services not otherwise fully funded through the operating program,

capital program or asset improvement program. In addition to any requirements contained in this section, applications must comply with section 1507 (relating to application and approval process). Programs of Statewide significance shall include:

(1) The Persons with Disabilities Program.

(2) Intercity passenger rail and bus services.

(3) Community transportation capital and service stabilization.

(4) The Welfare-to-Work Program and matching funds for Federal programs with similar intent.

(5) Demonstration and research projects.

(6) Technical assistance.

(7) Other programs as determined by the department.

(8) The department's costs under sections 1510(b) (relating to program oversight and administration) and 1518 (relating to program oversight and administration).

(b) Persons with disabilities.--The department shall establish and administer a program providing reduced fares to persons with disabilities on community transportation services and to provide financial assistance for start-up, administrative and capital expenses related to reduced fares for persons with disabilities. All of the following shall apply:

(1) A community transportation system operating in the Commonwealth other than in a county of the first class may apply for financial assistance under this subsection.

(2) The department may award financial assistance under this subsection for program start-up and for continuing capital expenses to offset administrative and capital expenses. For community transportation trips made by eligible persons with disabilities, financial assistance may be awarded to an eligible community transportation system to reimburse the system for up to 85% of the fare established for the general public for each trip which is outside of fixed-route and paratransit service areas and not eligible for funding from any other program or funding source. The person making the trip or an approved third-party sponsor shall contribute the greater of 15% of the fare established for the general public or the Americans with Disabilities Act complementary paratransit fare.

(c) Intercity transportation.--The department is authorized to provide financial assistance for an efficient and coordinated intercity common carrier surface transportation program, consisting of both intercity passenger rail service and intercity bus service transportation, with the intent of sustaining strong intercity connections. All of the following shall apply:

(1) An intercity passenger rail service provider, a local transportation organization, an agency or instrumentality of the Commonwealth or a transportation company that provides intercity public transportation service may apply for financial assistance under this subsection. The department is authorized to enter into joint service agreements with a railroad company, any other agency or instrumentality of the Commonwealth, a Federal agency or an agency or instrumentality of any other jurisdiction relating to property, buildings, structures, facilities, services, rates, fares, classifications, dividends, allowances or charges, including charges between intercity rail passenger service facilities, or rules or regulations pertaining thereto, for or in connection with or incidental to transportation in whole or in part upon intercity rail passenger service facilities.

(2) Operating assistance and capital assistance may be provided for intercity bus service and intercity passenger rail service as determined by the department.

(3) For financial assistance to a transportation company, eligible matching funds shall consist only of cash income generated by the transportation company from its activities, other than the provision of subsidized public passenger transportation service and contributed by the transportation company in the amount and for the time period specified in the financial assistance agreement.

(4) Local match requirements are as follows:

(i) For intercity bus service operating and capital assistance, financial assistance shall require a local match by local or private cash funding in an amount equal to at least 100% of the amount of the financial assistance being provided.

(ii) For intercity passenger rail service operating and capital assistance, financial assistance shall require a local match on a case-by-case basis, taking into account the best interests of the Commonwealth.

(5) For purposes of this subsection, "local match" is defined as local revenue obtained from other nonsubsidized services such as charter, school bus or profits realized from other intercity bus services. Local match shall not include any funds received from Federal or State sources.

(d) Community transportation.--

(1) The department is authorized to provide financial assistance under this section for all of the following:

(i) Capital expenditures for the provision of community transportation service; and

(ii) service stabilization, including:

(A) Stabilizing current service and fares.

(B) Providing advice or technical assistance to analyze and enhance community transportation system resources and services.

(C) Maximizing available funding including Federal dollars.

(D) Ensuring equitable cost sharing.

(2) Subject to the limitations of this subsection, the following may apply for financial assistance under this subsection:

(i) The governing body of a county, other than a county of the first or second class.

(ii) A transportation company designated by the governing body of the county as the coordinator of community transportation service.

(iii) An agency or instrumentality of the Commonwealth.

(2.1) Each eligible applicant shall be subject to all of the following requirements:

(i) An applicant for financial assistance for capital expenditures for the provision of public community transportation service shall certify to the department that it has taken all reasonable steps to coordinate local service for the elderly and persons with disabilities and that the services to be offered with the capital assets do not duplicate existing fixed-route services.

(ii) The governing body of a county or the coordinator described under this paragraph shall not be eligible for financial assistance for service stabilization if any of the following apply:

(A) The coordinator receives financial assistance under the operating program established under this chapter.

(B) The coordinator is a private for-profit provider.

(3) Financial assistance for service stabilization may only be provided for the following purposes:

(i) Short-term, long-term and strategic planning.

(ii) Technology investment.

(iii) Training programs designed to enhance transportation management and staff expertise.

(iv) Offsetting operating expenses that cannot be covered by fare revenue due to emergencies.

(v) Marketing activities.

(vi) Other stabilization purposes approved by the department.

(4) The department shall give high priority to providing financial assistance under this subsection as match for Federal funding to support capital projects for community transportation systems.

(5) The department shall conduct a study to evaluate the effectiveness and efficiency of community transportation service delivery as it relates to human service programs. The Department of Public Welfare, the Office of the Budget and the Department of Aging and other appropriate Commonwealth agencies identified by the department shall participate in the study. Within two years following the effective date of this section, these agencies shall make recommendations to the Governor and the Majority and Minority chairpersons of the Transportation Committee of the Senate and the Majority and Minority chairpersons of the Transportation Committee of the House of Representatives for improving coordination and efficiency of human services and community transportation.

(d.1) Welfare-to-work and Federal programs match.--The department is authorized to provide financial assistance under this section to design and implement projects and services and to reimburse award recipients for the expenses associated with the projects and services that identify and address public passenger transportation and related barriers preventing individuals eligible for participation in the Federal welfare-to-work program from securing and maintaining employment and from accessing community services and facilities. All of the following shall apply:

(1) A local transportation organization, a transportation company designated by a county as the coordinator of community transportation services or any other person approved by the department may apply to the department for financial assistance under this subsection.

(2) Financial assistance awarded under this subsection shall be used for any of the following purposes:

(i) Fixed-route service subsidy.

(ii) Contracted transportation services.

(iii) Fixed-route fare discounts.

(iv) Community transportation fare discounts.

(v) Taxi fare discounts.

(vi) Mileage reimbursement.

(vii) Vehicle purchase, insurance, maintenance and repair.

(viii) Driver education classes.

(ix) Administrative expenses.

(x) Case management expenses.

(xi) Any other activities consistent with the transportation related elements of the welfare-to-work program.

(3) The department shall give high priority to providing financial assistance under this subsection as match for Federal funding to support projects with similar purposes and eligible uses, including the Federal Job Access Reverse Commute and New Freedoms programs.

(e) Technical assistance, demonstration and emergency.--The department is authorized to provide financial assistance under this section for technical assistance, research and short-term demonstration or emergency projects. All of the following shall apply:

(1) A local transportation organization or an agency or instrumentality of the Commonwealth may apply to the department for financial assistance under this subsection.

(2) Financial assistance provided under this subsection may be used for reimbursement for any approved operating or capital costs related to technical assistance and demonstration program projects. Financial assistance for short-term demonstration projects may be provided at the department's discretion on an annual basis based on the level of financial commitment provided by the award recipient to provide ongoing future funding for the project as soon as the project meets the criteria established by the department and the award recipient. Financial assistance for this purpose shall not be provided for more than three fiscal years. Financial assistance may be provided to meet any short-term emergency need that requires immediate attention and cannot be funded through other sources.

(3) Financial assistance under this subsection provided to a local transportation organization shall be matched by local or private cash funding in an amount not less than 3.33% of the amount of the financial assistance being provided. The sources of funds for the local match shall be subject to the requirements of section 1513(d)(3) (relating to operating program).

(4) As follows:

(i) For short-term demonstration projects awarded financial assistance under this subsection, the department shall determine if the demonstration project was successful based upon the performance criteria established prior to the commencement of the demonstration project and approved by the department.

(ii) If the department determines that the demonstration project was successful, the local transportation organization or agency or instrumentality of the Commonwealth that conducted the demonstration project shall be eligible to apply for and receive funds under section 1513 to sustain and transition the demonstration project into regularly scheduled public passenger transportation service.

(iii) During the first year in which the demonstration project is eligible for and applies for financial assistance under section 1513, the local transportation organization or agency or instrumentality of the Commonwealth that conducted the demonstration project and transitioned it to regularly scheduled public passenger transportation service shall be eligible to receive financial assistance up to 65% of the transportation service's prior fiscal year operating

costs or expenses for the service as an initial base operating allocation.

(iv) The initial base operating allocation shall be taken from the growth under section 1513 over the prior year before distributing the remainder of the formula described in section 1513.

(f) Shared Ride Community Transportation Service Delivery Pilot Program.--

(1) The department may develop and implement a pilot program to test and evaluate new models of paying for and delivering shared ride and community transportation. The goals of the program are as follows:

(i) Develop a community transportation delivery model that can be managed to stay within budget.

(ii) Develop community transportation service standards with needs-based priorities.

(iii) Develop a business model and fare structure that work across funding programs.

(iv) Maximize efficiency and effectiveness of the services.

(2) The department shall establish an advisory committee to provide guidance and input for pilot planning, start-up, operations, data collection and post pilot evaluation. The committee shall be comprised of the following:

(i) A member appointed by the President pro tempore of the Senate.

(ii) A member appointed by the Minority Leader of the Senate.

(iii) A member appointed by the Speaker of the House of Representatives.

(iv) A member appointed by the Minority Leader of the House of Representatives.

(v) Two members from the Pennsylvania Public Transit Association appointed by the secretary.

(vi) A member appointed by the secretary to represent people with disabilities.

(vii) A member appointed by the Secretary of Aging to represent senior citizens.

(viii) A member appointed by the Secretary of Public Welfare to represent people using medical assistance transportation.

(ix) A member of the County Commissioners Association appointed by the secretary.

(x) The secretary or a designee.

(xi) The Secretary of Aging or a designee.

(xii) The Secretary of the Budget or a designee.

(xiii) The Secretary of Public Welfare or a designee.

(3) The department shall work with the committee to define potential pilot models within 12 months of the effective date of this subsection.

(4) The department shall publish the notice of availability of the program models and framework in the Pennsylvania Bulletin and receive applications from counties and shared ride community transportation systems interested in participating in the program for the three-month period following the publication of the notice.

(5) The department may work with the committee to redefine the basis for payment using lottery and other State funding sources currently used to support community transportation programs for selected pilot counties and shared ride community transportation systems to test new

methods of service delivery and payment. Each project must have a business plan with management controls, service standards and budget controls. The business plan shall be reviewed by the committee prior to being implemented.
(Nov. 25, 2013, P.L.974, No.89, eff. imd.)

2013 Amendment. Act 89 amended subsecs. (b)(1) and (e) and added subsec. (f). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

References in Text. The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

The Secretary of Public Welfare, referred to in this section, was redesignated as the Secretary of Human Services by Act 132 of 2014.

Cross References. Section 1516 is referred to in section 1506 of this title.

§ 1517. Capital improvements program.

(a) Eligibility.--A local transportation organization may apply for financial assistance under this section.

(b) Applications.--The department shall establish the contents of the application for the program established under this section. The information shall be in addition to information required under section 1507 (relating to application and approval process).

(c) Distribution formula.--The department shall award financial assistance under this section based on the number of passengers. The actual amount awarded to a local transportation organization under this subsection shall be calculated as follows:

(1) Multiply the local transportation organization's passengers by the total amount of funding available under this section.

(2) Divide the product under paragraph (1) by the sum of the passengers for all qualifying local transportation organizations.

(d) Payments.--Financial assistance under this section shall be paid to local transportation organizations at least quarterly.

(e) Reduction in financial assistance.--Financial assistance provided to a local transportation organization under this section shall be reduced by any financial assistance received previously under this section which has not been spent or committed in a contract within three years of its receipt.

(f) Certification ends funding.--Financial assistance under this section shall cease when the secretary certifies that funds are no longer available for the program established under this section.
(Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

2013 Amendment. Act 89 added subsec. (f). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 1517.1. Alternative Energy Capital Investment Program.

(a) Establishment.--The department is authorized to establish a competitive grant program to implement capital improvements deemed necessary to support conversion of a local transportation organization's fleet for use of an alternative energy source, including compressed natural gas.

(b) Criteria.--The department shall establish criteria for awarding grants under this section. Criteria shall, at a

minimum, include feasibility, cost/benefit analysis and project readiness.

(c) Additional authorization.--Notwithstanding any other provisions of this section or other law, the department may use funds designated for the program established under subsection (a) to supplement a local transportation organization's base operating allocation under section 1513 (relating to operating program) if necessary to stabilize an operating budget and ensure that efficient services may be sustained to support economic development and job creation and retention.
(Nov. 25, 2013, P.L.974, No.89, eff. imd.)

2013 Amendment. Act 89 added section 1517.1. See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Section 1517.1 is referred to in sections 1503, 1506 of this title.

§ 1518. Program oversight and administration.

The department is authorized to use available money in the fund to cover the costs incurred by the department in administering all of its public passenger transportation funding programs, including those established under this chapter, and incurred in the carrying out of its responsibilities with respect to the programs.

Cross References. Section 1518 is referred to in section 1516 of this title.

§ 1519. Retroactive authority.

(a) Date of project.--Financial assistance may be awarded under this chapter by the department with reference to an appropriate project irrespective of when it was first commenced or considered and regardless of whether costs with respect to the project were incurred prior to the time the financial assistance is applied for or provided.

(b) Capital projects.--

(1) For capital projects, the applicant must obtain written approval from the department prior to incurring any expenses for which the applicant may later seek reimbursement.

(2) Notwithstanding paragraph (1), approval by the department shall not constitute an approval of the applicant's underlying request for financial assistance.

(3) By providing preapproval under this subsection, the department may recognize any local funds already expended as satisfying the local match requirement if and when the applicant's application is approved.

§ 1520. Evaluation of private investment opportunities.

(a) Study.--A local transportation organization receiving funding in an amount greater than $5,000,000 annually under this chapter shall undertake a study to evaluate the feasibility of utilizing partnerships with private service providers and financial partners as a method to operate and finance new or existing services. Within one year following the effective date of this section, each local transportation organization required to evaluate private participation under this section shall submit a report to the secretary and the majority chairperson and minority chairperson of the Transportation Committee of the Senate and the majority chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(b) Report.--The report shall, at a minimum, include the results of the evaluation, a determination of the viability of

greater private partnering and any recommendations about how to achieve greater participation from the private sector.

(c) Preclusion.--Nothing in this section shall preclude a local transportation organization receiving less than $5,000,000 annually under this chapter from making an evaluation of greater private involvement in their operations.

CHAPTER 17
METROPOLITAN TRANSPORTATION AUTHORITIES

Subchapter

A. General Provisions
B. Authorization and Organization of Authorities
C. Powers and Duties
D. Funds and Bonds of Authorities
E. Miscellaneous Provisions

Enactment. Chapter 17 was added February 10, 1994, P.L.20, No.3, effective immediately.

Special Provisions in Appendix. See the preamble to Act 3 of 1994 in the appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Chapter 17 is referred to in section 1514 of this title; section 5531 of Title 18 (Crimes and Offenses); section 3938 of Title 62 (Procurement).

SUBCHAPTER A
GENERAL PROVISIONS

Sec.

1701. Definitions.

§ 1701. Definitions.

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

"Authority." Any body corporate and politic created under this chapter or created under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities) and continued under this chapter.

"Board." The governing and policymaking body of an authority.

"Bonds." Notes, bonds, bond anticipation notes, refunding notes and bonds, interim certificates, debentures and other evidences of indebtedness or obligations which an authority is authorized to issue under this chapter.

"Cash flow deficit." A cash deficit occurring solely because revenues and expenditures, even when in balance on a fiscal year basis or with respect to any other period of computation, are not received and disbursed at equivalent rates throughout the fiscal year or other period of computation.

"Comprehensive transportation plan." A comprehensive statement consisting of maps, charts and textual matter of an authority's policies, strategies and objectives for the development of the transportation system consistent with the legislative findings and declared policy of this chapter and the rights, powers and duties of the authority.

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

"Federal agency." The Federal Government, the President of the United States and any department or corporation, agency or instrumentality heretofore or hereafter created, designated or established by the Federal Government.

"Government agency." The Governor, departments, boards, commissions, authorities and other officers and agencies of this Commonwealth, including, but not limited to, those which are not subject to the policy supervision and control of the Governor, any political subdivision, municipality, municipal or other local authority and any officer or agency of any such political subdivision or local authority. The term does not include any court or other officer or agency of the unified judicial system or the General Assembly or its officers and agencies.

"Government obligations."

(1) Direct obligations of or obligations the principal of and interest on which are unconditionally guaranteed by the Federal Government, including, but not limited to, evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the Federal Government, which obligations are held in a custody account by a custodian under the terms of a custody agreement.

(2) The term includes obligations issued by any state of the United States or any political subdivision, public instrumentality or public authority of any state of the United States, provision for the full and timely payment of the principal or premium of and interest on which shall have been made by deposit with a trustee or escrow agent under an irrevocable security agreement of obligations described in paragraph (1).

"Legislative body." The term shall mean, in counties of the first class, the city council, in the other counties, the board of county commissioners or the county council and, in the other municipalities, that body authorized by law to enact ordinances.

"Majority." Any whole number constituting more than half of the total number.

"Master trust indenture." A trust indenture, trust agreement or deed of trust providing for the incurrence of indebtedness guaranteed on a joint and several basis by a group of obligated issuers.

"Mayor." The chief executive officer of any first class city in any first class county.

"Metropolitan area." All of the territory within the boundaries of any county of the first class and all other counties located in whole or in part within 20 miles of the first class county.

"Municipality." Any city, county, borough, incorporated town, township or other political subdivision. The terms "municipality" and "political subdivision" shall have the same meaning when used in this chapter.

"Obligee of an authority." Any holder or owner of any bond of an authority or any trustee or other fiduciary for any such holder or any provider of a letter of credit, policy of municipal bond insurance or other credit enhancement or liquidity facility for bonds of an authority.

"Person." The term shall mean and include corporations, partnerships, associations, Federal agencies, the Commonwealth, government agencies and other entities, as well as natural persons.

"Political subdivision." Any county, city, borough, incorporated town, township, school district, vocational school district and county institution district.

"Project." Any structure, facility or undertaking which an authority is authorized to acquire, construct, improve, lease, maintain, operate, contract for or otherwise function with respect to under the provisions of this or any other act, including, but not limited to, all work and material incidental thereto and all costs thereof, including all amounts necessary to place the project into operation.

"Qualified financial institution." A bank, bank and trust company, trust company, national banking association, insurance company or other financial services company whose unsecured long-term debt obligations, in the case of a bank, trust company, national banking association or other financial services company, or whose claims paying abilities, in the case of an insurance company, are rated in any of the three highest rating categories without reference to subcategories by a rating agency. For purposes of this definition, the term "financial services company" shall include any investment banking firm or any affiliate or division thereof which may be legally authorized to enter into the transactions described in this chapter pertaining, applicable or limited to a qualified financial institution.

"Rating agency."

(1) The term includes the following:

(i) Standard & Poor's Corporation and any successor thereto.

(ii) Moody's Investors Service and any successor thereto.

(iii) Fitch Investors Service, Inc., and any successor thereto.

(2) If the rating agencies cited in paragraph (1) shall no longer perform the functions of a securities rating service, the term shall mean any other nationally recognized rating service or services.

"Real estate-related matter." A transaction or agreement which involves any fee, leasehold or other estate or interest in, over or under real property in which the authority has an interest or wishes to acquire an interest, including, but not limited to, structures, fixtures and other improvements and interests which by custom, usage or law pass with the conveyance of real property though not described in the contract of sale or instrument of conveyance. The term includes parcels with or without upper or lower boundaries and spaces that may be filled with air or water and includes any contract, joint venture, management or brokerage agreement which is related directly or indirectly thereto.

"Transportation system." All property, real and personal, useful for the transportation of passengers for hire, including, but not limited to, power plants, substations, terminals, garages, bridges, tunnels, subways, elevated lines, monorails, railroad motive power, trains, railroad passenger cars and equipment, belt conveyors, inclines, car barns, street cars, buses, rails, lines, poles, wires, stations and off-street parking facilities rights-of-way, as well as the franchises, rights and licenses therefor, including rights to provide group, party and paratransit services. The term shall not include a taxicab.

SUBCHAPTER B

Sec.
1711. Creation of metropolitan transportation authorities.
1712. Governing and policymaking body.
1713. Appointment of board members.
1714. Resignation and vacancies.
1715. Meetings, quorum, officers and records.
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1727. Investigations and subpoenas.
1728. Conflicts of interest.

§ 1711. Creation of metropolitan transportation authorities.

(a) Creation and purpose.--There is hereby authorized the creation of a separate body corporate and politic in each metropolitan area, to be known as the transportation authority of that metropolitan area, extending to and including all of the territory in the metropolitan area. An authority shall in no way be deemed to be an instrumentality of any city or county or other municipality or engaged in the performance of a municipal function, but shall exercise the public powers of the Commonwealth as an agency and instrumentality thereof. An authority shall exist for the purpose of planning, acquiring, holding, constructing, improving, maintaining, operating, leasing, either as lessor or lessee, and otherwise functioning with respect to a transportation system in the metropolitan area and outside of such area, whether within or beyond the boundaries of this Commonwealth, to the extent necessary for the operation of an integrated transportation system and for the provision of all group and party services which can be provided by the existing transportation system or transportation systems subject to acquisition under this chapter. All services rendered by an authority outside the metropolitan area shall be pursuant to certificates of public convenience or other appropriate authorization issued to it by the Pennsylvania Public Utility Commission or other appropriate regulatory agency of the Federal Government or any state. Except as provided in subsection (c), an authority shall transact no business or otherwise become operative until and unless a majority of its board shall have been qualified in accordance with this subchapter.

(b) Certificate of incorporation.--

(1) The certification by the appointing power of each board member and the constitutional oath of office subscribed by each member shall be filed with the Department of State, and, except as provided in subsection (c), upon the receipt of initial certifications and respective oaths of a majority of the total number of board members appropriate to any metropolitan area, the Secretary of the Commonwealth shall issue a certificate of incorporation. This certificate shall refer to that authority by the name which shall be designated by the board members.

(2) In any suit, action or proceeding involving or relating to the validity or enforcement of any contract or act of an authority, a copy of the certificate of incorporation, duly certified by the Department of State, shall be admissible in evidence and shall be conclusive proof of the legal establishment of the authority.

(c) Transition provisions.--

(1) Any authority established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities) shall be deemed, for all purposes, to be an authority created under this chapter, shall continue in effect under this chapter as an authority of the Commonwealth and shall exercise those powers, functions and duties and be governed by those provisions applicable to an authority created under this chapter. Such authority established under the former provisions of Article III of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15 shall be deemed to have satisfied the requirements of subsections (a) and (b) concerning the organization of an authority under this chapter. Nothing in this chapter shall be construed to alter or modify in any respect any contract or other obligation of such authority entered into prior to the effective date of this chapter.

(2) An authority created or existing under this chapter, including any authority established under the former provisions of Article III of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15, shall, without the necessity of action or assignment by it or any other person:

(i) continue in the rights and responsibilities of any authority existing under the former provisions of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15 for all purposes, including, but not limited to, receipt of all grants, gifts, appropriations, subsidies or other payments;

(ii) continue to be the owner of any real or personal property and enjoy and be subject to any and all rights and responsibilities appurtenant thereto of any authority existing under the former provisions of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15, including, but not limited to, all assets, property, real and personal, tangible and intangible, all easements and all evidences of ownership or other interest in part or in whole, and all records, and other evidences pertaining thereto; and

(iii) continue to be obligated with respect to all debt and other contractual obligations of any authority existing under the former provisions of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15.

(3) It is hereby declared to be the intent of the General Assembly that an authority created or existing under this chapter, including any authority established under the former provisions of Article II of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15, and the members, officers, officials and employees of any of them, shall continue to enjoy sovereign and official immunity, as provided in 1 Pa.C.S. § 2310 (relating to sovereign immunity reaffirmed; specific waiver), and shall

remain immune from suit except as provided by and subject to the provision of 42 Pa.C.S. §§ 8501 (relating to definitions) through 8528 (relating to limitations on damages).

Cross References. Section 1711 is referred to in section 1782 of this title.

§ 1712. Governing and policymaking body.

(a) Transportation board.--The governing and policymaking body of an authority shall be a board, to be known as the transportation board of the metropolitan area, consisting of members to be appointed as provided in section 1713 (relating to appointment of board members), who, except for the appointee of the Governor, must be residents of the metropolitan area. No board member shall be allowed any fees, perquisites or emoluments, reward or compensation for his services as a member or officer of an authority, but the board member shall be reimbursed for actual expenses incurred in the performance of his duties.

(b) Limit on exercise of powers.--The board shall not involve itself in the day-to-day administration of the authority's business. It shall limit its exercise of powers to such areas of discretion or policy as the functions and programs of the authority, the authority's operating and capital budgets, the authority's standard of services, utilization of technology, the organizational structure and, subject to the provisions of this chapter, the selection of and the establishment of salaries for personnel.

§ 1713. Appointment of board members.

(a) Appointment.--Except as provided in subsection (d) with respect to the continuation in office of members of the board of any authority established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities), at any time after the effective date of this chapter:

(1) The Governor may appoint as a member of the board one person who may be an ex officio appointee from among the various officials in this Commonwealth and whose term as a board member shall run concurrently with that of his Commonwealth position, if any, or the term of the appointing Governor, whichever is shorter.

(2) The Majority Leader and the Minority Leader of the Senate and the Majority Leader and the Minority Leader of the House of Representatives may each appoint one person to serve as a board member, whose term shall be concurrent with the term and who shall serve at the pleasure of the appointing legislative leader.

(3) The county commissioners or the county council in each county and, in any county of the first class containing a city of the first class, the mayor, with the approval of the city council, may appoint two persons from each county to serve as board members.

(b) Successor.--At the expiration of the term of any board member, his successor shall be appointed by the same power who appointed that board member for a term of five years from the expiration date.

(c) Certification and oath of office.--The appointing powers shall certify their respective appointments to the Secretary of the Commonwealth. Within 30 days after certification of his appointment and before entering upon the duties of his office,

each member of the board shall take and subscribe the constitutional oath of office and file it in the office of the Secretary of the Commonwealth.

(d) Transition provision.--With respect to the board of any authority established under the former provisions of Article III of the Pennsylvania Urban Mass Transportation Law or the former provisions of Chapter 15, all members of the board of the authority shall be deemed to be members of the board of an authority created under this chapter and shall continue in office until their respective terms of office would have expired as provided for in the former provisions of the Pennsylvania Urban Mass Transportation Law or section 1517 (relating to appointment of board members) and shall exercise the powers, functions and duties of a board of an authority created under this chapter.

References in Text. Section 1517, referred to in subsec. (d), is repealed. The subject matter is now contained in this section.

Cross References. Section 1713 is referred to in section 1712 of this title.

§ 1714. Resignation and vacancies.

(a) Removal and vacancy.--Members of the board shall hold office until their respective successors have been appointed and have qualified. The appointing power may remove any member of the board appointed by that appointing power, but only in case of incompetency, neglect of duty or malfeasance in office. No member shall be thus removed except after having been given a copy of the charges against the member and an opportunity to be publicly heard at a place in the metropolitan area, in person or by counsel, in his own defense upon not less than ten days' written notice. In case of failure to qualify within the time required or of abandonment of his office or in case of death, conviction of a felony or removal from office, that office shall become vacant.

(b) Abandonment.--A member shall be deemed to have abandoned his office upon failure to attend any regular or special meeting of the board, without excuse approved by resolution of the board, for a period of four months or upon removal of his residence from the metropolitan area.

(c) Filling of vacancy.--Each vacancy shall be filled for the unexpired term by appointment in like manner and with like regard as to the place of residence of the appointee as in case of expiration of the term of a member of the board.

(d) Appeal.--A member removed for incompetency, neglect of duty or malfeasance in office shall have the right to appeal that removal to the court of common pleas of the county for which that member was appointed, but only on the ground of error of law or manifest and flagrant abuse of discretion.

§ 1715. Meetings, quorum, officers and records.

(a) Meetings.--Regular meetings of the board shall be held in the metropolitan area at least once in each calendar month except July or August, the time and place of the meetings to be fixed by the board. A majority of the board shall constitute a quorum for the transaction of business. All action of the board shall be by resolution, and the affirmative vote of a majority of all the members shall be necessary for the adoption of any resolution. No action by the board to which an express objection has been made, under this section, by a board member or members representing a county or counties having one-third or more of the population of the metropolitan area, as determined by the most recent decennial census, shall be carried

unless supported at a subsequent regular meeting of the board by the votes of at least three-quarters of the membership of the board. In case of disagreement between members representing the same county, each member shall be deemed to represent one-half of the population of that county.

(b) Officers.--The board shall elect from among its members a chairman and a vice chairman, each of whom shall serve for a term of one year and until his successor shall have been elected and qualified and who shall perform those duties as the board shall, by resolution, determine.

(c) Public meetings and records.--

(1) The board shall be subject to the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, and the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act.

(2) Notwithstanding the provisions of section 4 of the Sunshine Act, one or more persons may participate in a meeting of the board or of any committee thereof by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other, including, in the case of a meeting open to the public, all other persons present at the place of meeting designated by public notice. Participation by one or more members of the board in a meeting pursuant to this subsection shall constitute presence in person at the meeting.

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (c)(1), was repealed by the act of Feb. 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

The act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act, referred to in subsec. (c), was repealed by the act of Oct. 15, 1998 (P.L.729, No.93). The subject matter is now contained in Chapter 7 of Title 65 (relating to open meetings).

Cross References. Section 1715 is referred to in section 1741 of this title.

§ 1716. Secretary, oath, bond.

The board shall appoint a secretary who shall not be a member of the board to hold office at the pleasure of the board and shall fix his duties and compensation. The secretary shall not be engaged in any other business or employment during his tenure of office as secretary of the board. Before entering upon the duties of the office of secretary, he shall take and subscribe the constitutional oath of office. Officers and employees of the authority and those members of the board as the board may determine shall execute corporate surety bonds conditioned upon the faithful performance of their respective duties. A blanket form of surety bond may be used for this purpose if the board deems this procedure to be practical and prudent. The obligation of the sureties shall not extend to any loss sustained by the insolvency, failure or closing of any national or state bank, bank and trust company or trust company wherein funds of the authority have been deposited if the bank, bank and trust company or trust company has been approved by the board as a depository for these funds. The oaths of office and the surety bond or bonds shall be filed in the principal office of the authority.

§ 1717. Controller.

The board shall appoint a controller who shall not be a member of the board to hold office at the pleasure of the board

and shall fix his compensation. The controller shall consult with, advise and assist the board on financial and accounting matters, including, but not limited to, the authority's system of internal controls, financial reports, current financial condition and such other financial and accounting matters which the board may deem appropriate. The controller shall submit an annual report of the authority's financial condition which shall be in addition to any other financial report required by this chapter to the board, the general manager and the Secretary of Transportation. The controller shall execute a corporate surety bond and, before entering upon the duties of his office, shall take and subscribe the constitutional oath of office.

§ 1718. Signatures.

(a) Facsimile signatures.--Whenever the business of the authority requires the affixing of the signature of any officer or employee of the authority, the use of a facsimile signature, when expressly authorized by resolution of the board, shall have the same force and effect as an original signature.

(b) Signatures of officers ceasing to hold office.--In case any officer whose signature appears upon any check, draft, bond, certificate or interest coupon issued under this chapter ceases to hold office before the delivery thereof to the payee or the purchaser of any bond or certificate, the officer's signature, nevertheless, shall be valid and sufficient for all purposes with the same effect as if he had remained in office until delivery thereof.

§ 1719. General manager.

The board shall appoint a general manager, who shall be the chief operations officer of the authority and who shall have demonstrated that he is competent and experienced in the area of transit management, and shall fix his compensation. The general manager shall have the power and duty to:

(1) Manage the properties of the authority.

(2) Attend to the day-to-day administration, fiscal management and operation of the authority's business.

(3) Appoint such employees as he deems necessary to conduct the affairs of his office, subject to the provisions of this chapter.

(4) Implement and enforce all resolutions, rules and regulations of the board.

(5) Submit to the board, according to a schedule established by it, periodic reports showing the overall state or condition of the transportation system according to established industry performance standards. These reports shall be considered public records.

(6) Implement policies established by the board.

§ 1720. Treasurer.

The general manager shall appoint a treasurer to hold office at his pleasure. In addition to the duties imposed on the treasurer by this chapter, the treasurer shall perform such other duties as the general manager shall prescribe. The treasurer shall execute a corporate surety bond and, before entering upon the duties of his office, shall take and subscribe the constitutional oath of office.

§ 1721. Counsel to the board.

The board shall appoint a counsel to the board, who shall be an attorney at law admitted to practice before the Supreme Court of Pennsylvania and who shall be appointed by the board to serve at its discretion. The board shall pay the counsel to the board reasonable compensation for services actually performed. The counsel to the board shall advise the board in all matters relating to its official duties and shall,

notwithstanding any other provision of this chapter, approve all matters relating to bonds and indentures.

Cross References. Section 1721 is referred to in section 1722 of this title.

§ 1722. Legal division and general counsel.

(a) Legal division.--The general manager shall establish a legal division which shall be administered by a full-time general counsel, who shall be an attorney at law admitted to practice before the Supreme Court of Pennsylvania and who shall be appointed by the general manager to serve at his or her pleasure. The legal division, in addition to the general counsel, shall consist of those attorneys and other employees as the general counsel shall, from time to time, determine to be necessary and who shall be appointed by the general manager. Except as provided in section 1721 (relating to counsel to the board), the legal division shall administer the legal affairs of the authority, shall prosecute and defend, settle or compromise all suits or claims for and on behalf of the authority and shall advise the general manager in all matters relating to his or her official duties. The authority shall not be considered either an executive agency or an independent agency for the purpose of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, but shall possess the same status for such purpose as the Auditor General, the State Treasurer and the Pennsylvania Public Utility Commission, except that the provisions of section 204(b) and (f) of the Commonwealth Attorneys Act shall not apply to the authority and, notwithstanding the provisions of 42 Pa.C.S. § 8525 (relating to legal assistance), the authority through its counsel shall defend actions brought against the authority and its officers and employees when acting within the scope of their official duties.

(b) Other counsel.--The general counsel may, from time to time, with the approval of the general manager, retain such other legal counsel on such terms and for such purposes as shall be deemed by the general manager to be necessary or in cases where the needs of the authority would be better served. Nothing in this section or in section 1721 shall be construed so as to limit the power of the legal or other officers of the counties and municipalities comprising the metropolitan area to act in behalf of the general manager in their official capacities when requested to do so by the general manager.

§ 1723. Other employees.

(a) Collective bargaining.--The board acting through the general manager shall have the right to bargain collectively and enter into agreements with labor organizations. The board acting through the general manager shall recognize and be bound by existing labor union agreements where they exist between labor unions and transportation companies that are acquired, purchased, condemned or leased by the board. It shall designate their duties and require bonds of those of them as the board may designate.

(b) Compensation.--The compensation of the general manager, counsel to the board, secretary and controller shall be fixed by the board. For all other officers, employees, attorneys, engineers, consultants and agents, the board shall establish salary scales. The general manager shall establish, within these salary scales, compensation levels based upon written appraisals of performance for all employees under his control. The secretary and the controller shall establish, within these

salary scales, compensation levels based upon written appraisals of performance for all employees in their respective offices.

(c) Other offices or employment.--With the exception of the secretary, any of the officers and employees described in subsection (b) may be appointed, retained, hired or employed on a part-time basis and may be engaged in other business or professional activities. No salaried executive officer of the authority shall hold any other office in or be an employee of the Federal, State or any county or municipal government except an office or employment without compensation or an office in the military reserve or National Guard.

§ 1724. Personnel matters.

(a) Classification of position.--

(1) The general manager shall classify all the offices, positions and grades of regular employment required with reference to the duties and compensation fixed therefor and adopt rules governing appointments to any of such offices or positions on the basis of merit and efficiency.

(2) Paragraph (1) shall not apply to the chairman of the board, secretary, counsel to the board or controller.

(3) No discrimination shall be made in any appointment or promotion because of age, sex, race, creed, color, political or religious affiliations or disability. No officer or employee shall be discharged or demoted except for just cause.

(b) Change in work force.--The general manager may abolish any office or reduce the force of employees for lack of work or lack of funds, but, in so doing, the officer or employee with the shortest service record in the classification and grade to which the officer or employee belongs shall be first released from service and shall be reinstated in order of seniority when additional force of employees in that job classification and grade is required. No person shall be released from service under this subsection if the person can be transferred:

(1) to another job classification at a lower grade in which job classification the person had previously served, for which that person is qualified and in which the incumbent is junior in seniority; or

(2) to a vacancy in another job classification for which that person is qualified.

(c) Pension system.--There shall be established and maintained by the authority a pension and retirement system to provide for payments when due under such system or as modified from time to time by resolution of the board. For this purpose, both the board and the participating employees shall make such periodic payments to the established system as may be determined by resolution. The board may provide for participation by its employees in the Social Security program or, in lieu of Social Security payments required to be paid by private corporations engaged in similar activity, shall make payments into such established system at least equal in amount to the amount so required to be paid by such private corporations or shall make such other arrangements as will accomplish the same purpose. Provisions shall be made by the board for all officers and employees of the authority appointed under this chapter to become, subject to procedures adopted by resolution of the board, members and beneficiaries of the pensions and retirement system with uniform rights, privileges, obligations and status as to the class in which the officers and employees belong. Members and beneficiaries of any pension or retirement system established by a transportation system acquired by the authority shall continue to have rights, privileges, benefits, obligations

and status with respect to the previously established system. To achieve the purposes set forth in this subsection, the board shall, by resolution, adopt appropriate procedures and from time to time shall obtain competent actuarial advice.

§ 1725. Public hearings.

(a) Conduct.--All public hearings required by this chapter shall be conducted so as to insure that:

(1) Members of the public are afforded a reasonable opportunity to comment orally or in writing or both orally and in writing concerning actions the authority proposes to take.

(2) The site of the hearing is a convenient, accessible location.

(3) Members of the public are adequately informed at the outset regarding the purposes of the hearing and the matters on the agenda.

(4) Reasonable and legitimate questions from members of the public are answered.

(b) Decrease in service.--Whenever a decrease in service is proposed, a public hearing shall be conducted in accordance with this section in the area affected by the proposed decrease in service.

§ 1726. Citizen advisory committee.

(a) Establishment and composition.--There is hereby established a citizen advisory committee. The committee shall consist of:

(1) an even number of members of the general public not fewer than 14 and not greater than 24, the exact number to be determined by the general manager, who shall be appointed by the county commissioners or the county council, as the case may be, of all counties of the third class and second class A who are involved with any city of the first class in the operation of a transportation system and by the mayor of any such city of the first class from residents of their respective municipalities who are regular users of mass transportation service; and

(2) five members of the general public, one resident from each of the counties mentioned in paragraph (1) and one resident from the city mentioned in paragraph (1) who are regular users of mass transportation service, who shall be appointed by the general manager.

(b) Terms.--The composition of the committee shall reflect the proportionate distribution of total ridership among all counties of the third class and second class A who are involved with any city of the first class in the operation of a transportation system and any such city of the first class. The terms of the members shall be two years from the date of appointment or until a successor has been appointed, except that one-half of the members first appointed shall serve for terms of one year and the other one-half shall serve for terms of two years. No member shall serve more than three consecutive terms. The committee shall select from among its number a chairman, vice chairman and a secretary. A majority of the members of the committee plus one shall constitute a quorum.

(c) Subjects to be submitted.--Regardless of whether public hearings are required on the matters described in this subsection, the general manager shall submit to the committee proposals regarding the adoption or amendment of a comprehensive transportation plan, the annual operating budget, any capital budget, the facilities to be operated, the services to be available and the rates to be charged therefor or other matters of a similar nature prior to any final action relating to any

of the foregoing. The committee may thoroughly consider the proposals and may prepare and transmit to the general manager and to any interested member of the public written comments concerning the proposals prior to the date when final action is to be taken.

(d) Nature of committee's comments.--Although the general manager shall give careful and due consideration to the committee's comments prior to the taking of any final action, the comments shall be considered only advisory in nature.

(e) Transition provision.--With respect to the citizen advisory committee established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Act, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities) that committee shall continue in effect and shall be deemed, for all purposes, to be a committee created under this section. This committee shall be deemed to have satisfied the requirements of subsections (a) and (b) concerning the establishment, functions and duties of a citizen advisory committee under this chapter. All members of the committee shall continue in office and shall exercise the powers, functions and duties of members of the committee until the expiration of their respective terms of office in effect on the effective date of this chapter.

§ 1727. Investigations and subpoenas.

(a) Procedure.--The board may investigate all means of transportation and the management thereof, the enforcement of its resolutions, rules and regulations and the action, conduct and efficiency of all officers, agents and employees of the authority. In the conduct of investigations, the board may hold public hearings on its own motion and shall do so on complaint or petition of any municipality in the metropolitan area. Each member of the board shall have power to administer oaths, and the secretary, by order of the board, shall issue subpoenas to secure the attendance and testimony of witnesses and the production of books and papers relevant to investigations and to any hearing before the board or any member thereof, or any officers' committee or employees' committee, appointed by the board to hear any complaint of an officer or employee who has been discharged or demoted.

(b) Enforcement.--Any court of record of this Commonwealth or any judge thereof, either in term time or vacation, upon application of the board or any member thereof may, in his discretion, compel the attendance of witnesses, the production of books and papers and giving of testimony before the board or before any member thereof or any officers' committee or employees' committee appointed by the board by attachment for contempt or otherwise in the same manner as the production of evidence may be compelled before the court.

§ 1728. Conflicts of interest.

Every member of the board and every employee of the authority shall be subject to the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act, and the act of October 4, 1978 (P.L.883, No.170), referred to as the Public Official and Employee Ethics Law.

SUBCHAPTER C
POWERS AND DUTIES

Sec.

1741. General powers.

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§ 1741. General powers.

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

(1) To have perpetual existence.

(2) To sue and be sued, implead and be impleaded, complain and defend in all courts, petition the Interstate Commerce Commission or any other Federal or State regulatory body or join in any proceeding before any such bodies or courts in any matter affecting the operation of any project of the authority.

(3) To adopt and use and alter at will a corporate seal.

(4) To establish a principal office within the county of the first class and such other office or offices as may be necessary for the carrying on of its duties.

(5) To make and from time to time to amend and repeal bylaws, rules, regulations and resolutions.

(6) To conduct examinations and investigations and to hear testimony and take proof under oath or affirmation at public or private hearings, as provided in this chapter, on any matter material to the public purposes set forth in this chapter.

(7) To appoint officers, agents, employees and servants and to prescribe their duties and fix their compensation, subject, however, to specific provisions of this chapter. Members of the board, as well as officers and employees of the authority, shall not be liable personally on any obligations, including, but not limited to, bonds of the authority.

(8) To enter into contracts of group insurance for the benefit of its employees or to continue any existing insurance and/or pension or retirement system and/or any other employee benefit arrangement covering employees of an acquired existing transportation system and/or to set up a retirement or pension fund or any other employee benefit arrangement for its employees.

(9) To procure such insurance, letters of credit, liquidity facilities, guaranties and sureties containing such coverages, including, but not limited to, contracts insuring or guaranteeing the timely payment in full of principal of and interest on bonds of the authority, or providing liquidity for purchase of bonds of the authority in such amounts, from such insurers, sureties, guarantors or other persons, as the authority may determine to be necessary or desirable for its purposes.

(10) To self-insure or otherwise provide for the insurance of any property or operations of the authority against any risks or hazards.

(11) To invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, as authorized by section 1761 (relating to management of funds).

(12) To acquire by purchase, gift or otherwise, hold, lease as lessee and use any franchise, right or property, real, personal or mixed, tangible or intangible, or any interest or right therein necessary, desirable or useful for carrying out the purposes of the authority; to sell, lease as lessor, transfer, dispose of or otherwise convey any franchise, right or property, real, personal or mixed, tangible or intangible, or any interest or right therein, at any time acquired by it; or to exchange the same for other property or rights which are useful for its purposes.

(13) To acquire by eminent domain any real or personal property, including improvements, fixtures and franchises of any kind whatever, for the public purposes set forth in this chapter in the manner provided in this chapter.

(14) To acquire by purchase, lease or otherwise and to construct, improve, maintain, repair and operate passenger transportation facilities and a transportation system or systems or portions thereof and to pay all costs thereof, including, but not limited to, the costs of all work and materials incidental thereto and all amounts necessary to place any project into operation.

(15) To fix, alter, charge and collect fares, rates, rentals and other charges for its facilities by zones or otherwise at reasonable rates to be determined exclusively by it, subject to appeal, as provided in this chapter for the purpose of providing for the payment of all expenses and obligations of the authority, including the acquisition, construction, improvement, repair, maintenance and operation of its facilities and properties, the maintenance and operation of a transportation system, the payment of the principal and interest on its obligations, and to comply fully with the terms and provisions of any agreements made with the purchasers of bonds or obligees of the authority. An authority shall determine by itself, exclusively, the facilities to be operated by it, the services to be available and the rates to be charged therefor. Public hearings shall be held prior to such determinations when changes are proposed which would increase or decrease fares, establish new routes, eliminate routes, change routes or make substantial changes in the level of service scheduled. However, public hearings need not be held for route changes, fares or level of scheduled service in the case of temporary changes not exceeding 90 days caused by emergencies; promotional fares or services, or experimental services, adopted to increase revenue and ridership, subject to board resolution; or special events in which the authority participates as provided by board resolution. Notice of public hearings shall be published in two newspapers of general circulation and a publication specifically designed to reach minorities not fewer than 30 calendar days prior to such hearing. Any person aggrieved by any rate or service or change of service fixed by the authority may bring an appeal against the authority for the purpose of protesting against any such charge, service or change of service. The grounds for the suits shall be restricted to a manifest and

flagrant abuse of discretion or an error of law; otherwise, all actions by the authority shall be final. Upon the finding of an error of law or a manifest and flagrant abuse of discretion, the court shall issue an order setting forth the abuse or error and returning the matter to the authority for such further action as shall be not inconsistent with the findings of the court. No appeal from the action of the authority or from the decision of the court of common pleas shall act as a supersedeas, except when taken by the authority or, in other cases, when specially granted after a finding that irreparable and extraordinary harm will result. The courts shall give priority to all appeals, and no bond shall be required of any party instituting such an appeal under the provisions of this section.

(16) To fix rates, fares and charges in such manner that they shall be at all times sufficient in the aggregate, and in conjunction with any grants from Federal or other sources and any other income available to the authority, to provide funds for the payment of all operating costs and expenses which shall be incurred by the authority, for the payment of the interest on and principal of all bonds payable from the revenues and to meet all other charges upon such revenues as provided by any trust agreement executed by the authority in connection with the issuance of bonds.

(17) To enter into agreements with the United States Postal Service or any successor organization for the transportation of mail and payment of compensation to the authority in lieu of fares for the transportation of letter carriers in uniform at all times. The board may provide free transportation for firefighters in uniform and police officers when in uniform or when not in uniform upon presentation of identification as police officers. The board may provide free transportation for employees of the authority when in uniform or upon presentation of identification as such employees, provide free transportation to dependents of employees of the authority upon presentation of identification as provided by the board and enter into reciprocal arrangements to provide free transportation to employees and dependents of employees of other transportation agencies.

(18) To borrow money from any person for the purpose of paying the costs of any project or in anticipation of the receipt of income of the authority and to evidence the same; make and issue bonds of the authority; secure the payment of such bonds or any part thereof by pledge of or security interest, which may be a senior, parity or subordinated pledge or security interest, in all or any of its revenues, rentals, receipts and contract rights and all or any of its moveable equipment and other tangible personal property; to secure the payment of such bonds or any part thereof by a mortgage lien on real property of the authority or any interest therein, provided, however, that no such lien shall extend to real property of the authority comprising rights of way, easements or any other interests in real property used or useful for passage of transportation vehicles or necessary for the safe and sound routing or control of transportation vehicles; issue bonds on an unsecured basis; issue bonds on a limited recourse or nonrecourse basis; issue bonds under a master trust indenture; make agreements with the purchasers or holders of bonds or with other obligees of the authority in connection with any bonds, whether issued or to be issued, as the authority shall deem advisable, which

agreements shall constitute contracts with the purchasers or obligees of the authority; obtain credit enhancement or liquidity facilities in connection with any bonds as the authority shall determine to be advantageous; and, in general, provide for the security for the bonds and the rights of the obligees of the authority.

(19) To accept grants and to enter into contracts, leases, subleases, licenses or other transactions with any person on such terms and for such purposes as the authority shall deem proper.

(20) To negotiate and enter into arrangements, including futures contracts, forward contracts and cap, collar, corridor, floor or ceiling agreements, with respect to essential supplies and commodities for an authority for the purpose of reducing the risk to the authority of price fluctuations for the supplies and commodities.

(21) To make and execute all contracts and other instruments necessary or convenient to the exercise of the powers of the authority, and any contract or instrument when signed by the chairman or vice chairman and secretary or assistant secretary or treasurer or assistant treasurer of the authority shall be held to have been properly executed for and on its behalf. Without limiting the generality of the foregoing, the authority is also authorized to enter into contracts for the purchase, lease, operation or management of transportation facilities within or without the metropolitan area or within or without this Commonwealth. Whenever the facilities are located outside the metropolitan area, they shall be subject to the jurisdiction of the appropriate regulatory agencies.

(22) To enter into contracts with government agencies and Federal agencies on such terms as the authority shall deem proper for the use of any facility or other real or personal property of the authority, and fixing the amount to be paid therefor.

(23) To agree with the constituent municipalities in which it operates for the lease of present and future municipal property, where such a lease would be advantageous to the authority in the financing or the operation of improved passenger transportation service.

(24) To explore alternative means of raising revenue or reducing expenses, including, but not limited to, real estate leases and rentals, equipment leases and rentals, contracting of services, the solicitation of competitive bids and the awarding of contracts to the highest responsive, responsible bidder for both interior and exterior advertising on all authority equipment on which the public is charged a fare for riding. Nothing in this chapter or in any other law of this Commonwealth shall preclude the negotiation and execution of contracts with respect to real estate-related matters in accordance with and subject solely to the provisions of this paragraph. The general manager may recommend in writing that the board make a finding of special opportunity with respect to a real estate-related matter. The board shall consider the general manager's recommendation at a public meeting. The notice given in accordance with the provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings), with respect to such meeting shall state that the board will consider making a finding of special opportunity at such meeting and shall describe the nature of the proposed finding of special opportunity. Any finding of special opportunity shall be approved by the board in accordance with the

provisions of section 1715 (relating to meetings, quorum, officers and records). The board shall adopt, by resolution, a process under which the authority shall enter into contracts needed to implement a finding of special opportunity. The process adopted by the board shall provide a method of prequalifying prospective contracting parties, where appropriate; for the reasonable notification of prospective contracting parties of the issuance of requests for proposals and the reasonable opportunity for qualified prospective contracting parties to submit proposals; for review of proposals from qualified prospective contracting parties; for the negotiation of contracts with one or more prospective contracting parties; for award of contracts on the basis of evaluation of the characteristics of the proposals; and for giving such weight to the various characteristics of any proposal as the board shall determine is in the best interest of the authority. The characteristics by which proposals may be evaluated under a finding of special opportunity may include the likely complexity of the transaction; the amount of investment any selected contracting party will be required to make or offers to make in the real estate-related matter; the experience and prior success of the proposed contracting party in other similar dealings with the same type of real estate-related matters or with the authority; the quality, feasibility and potential for economic success of the proposal; any cost or potential return to the authority; the economic reliability and financial viability of the proposed contracting party; the compatibility of the proposal with the authority's basic function as a public transportation provider; the date by which the proposed contracting party agrees to complete the real estate-related matter; and other factors which the board shall specify. The authority shall make available a copy of the process adopted by the board to any person requesting a copy of the process. The general manager may make a written recommendation to the board concerning the award of a contract under a finding of special opportunity. The general manager's recommendation shall include the identity of the prospective contracting party or parties, the purpose of the contract, the substance of the finding of special opportunity, the substance and term of the proposed contract, the identities of any other prospective contracting parties who submitted proposals and the criteria upon which the general manager's recommendation was made and the reasons for selecting the prospective contracting party. Upon the written recommendation of the general manager, the board may award contracts under this paragraph after approving the awarding of the contract by a resolution adopted at a public meeting. The notice given in accordance with 65 Pa.C.S. Ch. 7 with respect to such meeting shall state that the board will consider awarding a contract under a finding of special opportunity at such meeting and shall describe the subject matter of such proposed contract. The authority shall by April 15 of each year submit a report to the department. The report shall detail the actions of the authority in exploring alternate means of raising revenue and reducing expenses. The department shall review the report and issue its findings and recommendations to the Appropriations Committee and the Transportation Committee of the Senate and the Appropriations Committee and the Transportation Committee of the House of Representatives no later than 30 days after receipt of such report for review and consideration of future funding by

such committees. Where any alternate means have been rejected, the authority shall demonstrate that the feasibility and cost-effectiveness of that alternate means have been considered. As used in this paragraph, "finding of special opportunity" shall mean a written determination by the board that exclusion of a real estate-related matter from bidding procedures, as provided in this chapter or any other law, will be in the best interest of the authority and will be compatible with the authority's basic function as a public transportation provider, considering the nature of the real estate-related matter with respect to which the authority proposes to contract. Any finding of special opportunity shall include the basis on which the finding of special opportunity is being made.

(25) To lease property or contract for service, including managerial and operating service, whenever it can more efficiently and effectively serve the public by so doing, rather than conducting its own operations with its own property.

(26) To have the right to use any public road, street, way, highway, bridge or tunnel for the operation of a transportation system within the metropolitan area. In all cases involving the facilities of a railroad, any operations of which extend beyond the metropolitan area, the exercise of this right by the authority shall be subject to the jurisdiction of the Pennsylvania Public Utility Commission under Title 66 (relating to public utilities) only to the extent that the operations extend beyond the metropolitan area.

(27) To act as agent of any government agency or any Federal agency for the public purposes set forth in this chapter.

(28) To make available to any government agency the recommendations of the authority affecting any area in the authority's field of operation or property therein, which it may deem likely to promote the public health, morals, safety and welfare.

(29) To form plans for the improvement of mass transportation and the operation of a transportation system in order to promote the economic development of the metropolitan area in which the transportation authority operates, to make recommendations concerning mass transportation facilities which the authority does not own or operate, to make recommendations concerning throughways and arterial highway connections to the department and to other appropriate governmental bodies and otherwise to cooperate with all such governmental bodies. The authority shall give advance notice to the department of any plans which it may have for the occupation or use of any part of any State highway.

(30) To rehabilitate, reconstruct and extend as possible all portions of any transportation system acquired by the authority and to maintain at all times a fast, reliable and economical transportation system suitable and adapted to the needs of the municipalities served by the authority and for safe, comfortable and convenient service. To that end, the board shall make every effort to utilize high-speed rights-of-way, private or otherwise, to the maximum extent practicable to avoid air pollution by its vehicles, to abandon no physical property which the authority has determined retains continued usefulness to the authority and to extend its rail and highway services into areas which

have sufficient need for them to economically or strategically justify such extension.

(31) To adopt, consistent with the policies of this chapter, and from time to time amend a comprehensive transportation plan. A public hearing shall be conducted prior to adoption or amendment. Notice of the public hearing shall be published in two newspapers of general circulation and a publication specifically designed to reach minorities not fewer than 30 days prior to the hearing.

(32) To do all acts and things necessary for the promotion of its business and the general welfare of the authority to carry out the powers granted to it by this chapter or any other statute. Notwithstanding any other provision of law, the board shall adopt procedures and practices to implement the provisions of this chapter by resolution of the board.

(b) Public highways.--Private rights and property in the beds of existing public highways vacated in order to facilitate the purposes of the authority shall not be deemed destroyed or ousted by reason of the vacation, but shall be acquired or relocated by the authority in the same manner as other property.

(c) Certain powers denied.--The authority shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth or any other government agency, nor shall any of the authority's obligations be deemed to be obligations of the Commonwealth or of any other government agency, nor shall the Commonwealth or any government agency be liable for the payment of principal or interest on such obligations.

(d) No power to levy taxes.--The authority shall not have power to levy taxes for any purpose whatsoever.
(July 7, 2011, P.L.257, No.49, eff. 60 days)

2011 Amendment. Act 49 amended subsec. (a)(24).

Cross References. Section 1741 is referred to in sections 1744, 1750 of this title.

§ 1742. Power to acquire property.

(a) General rule.--

(1) The authority shall have power to acquire by purchase, condemnation, lease, gift or otherwise all or any part of the property of any public utility operating a transportation system within the metropolitan area, including, but not limited to, the plant, equipment, property rights in property reserve funds, employees' pension or retirement funds, special funds, franchises, licenses, patents, permits, operating rights and paper documents and records, which property shall be located within the metropolitan area and shall be appropriate for the purposes for which the authority is established, as well as all or any part of the right-of-way, equipment, fixed facilities and other property of any kind of any utility, extending beyond the boundaries of the metropolitan area and forming or capable of forming part of an integrated suburban rapid transit or rail transportation facility, connecting with rapid transit or electric railway lines of the authority in superhighways or elsewhere. No interest in the right-of-way of a railroad company the operations of which extend beyond the metropolitan area shall be acquired or occupied under the power of eminent domain under this section or any other section without the consent of the railroad.

(2) Such properties, upon acquisition by or lease to the authority, shall become and be operated as part of the

transportation system of the authority, and the authority shall have all powers in connection with such properties and such operations as are conferred by this chapter.

(3) The authority shall also have the power to enter into agreements to operate any lines located or extending beyond the boundaries of the metropolitan area, such agreements to be subject to all other provisions of this chapter. The authority shall have power to lease or purchase any municipally owned local transportation subways or other municipally owned local transportation facilities for operation and maintenance by the authority.

(b) Condemnation procedure.--

(1) Whenever the authority shall condemn all or substantially all of the property of a transportation system, it may elect to commence condemnation proceedings without immediate passage of title by inserting a provision to that effect in the declaration of taking. In that event, the provisions of section 402 of the act of June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent Domain Code, shall not apply, and the title shall not pass to the authority and the authority shall not be entitled to possession until payment to the condemnee or into court of the amount of the just compensation payable for the property taken, determined as of the date of filing of the declaration of taking, as finally determined in accordance with the provisions of this article, provided that such payment occurs within one year of the final determination.

(2) From and after the filing of the declaration of taking until the payment to the condemnee of just compensation for the condemned property, the authority shall have the right to petition the court having jurisdiction of the proceedings to prevent waste, substantial disposition or any transaction with respect to the condemned property other than in the ordinary course of business without obtaining the prior written consent of the authority. The condemnee shall have no right to tender possession of the property or otherwise to demand payment of any compensation prior to the passage of title.

References in Text. The act of June 22, 1964 (Sp. Sess., P.L.84, No.6), known as the Eminent Domain Code, referred to in subsec. (b)(1), was repealed by the act of May 4, 2006 (P.L.112, No.34). The subject matter is now contained in Title 26 (Eminent Domain).

§ 1743. Power to contract with public utilities.

The authority shall have power to enter into agreements with any public utility operating a railroad or any other transportation facility, either within or without the metropolitan area, for the joint use of any property of the authority or public utility or the establishment of through routes, joint fares and transfer of passengers. The authority shall have power to enter into agreements with any public utility, either within or without the metropolitan area, which in the judgment of the authority are necessary and convenient for carrying out the purposes of this chapter.

§ 1744. Power of eminent domain.

(a) Utility structures.--

(1) The authority shall have power, subject to relevant provisions of section 1741(a)(26) (relating to general powers), to require persons or corporations owning or operating public utility structures and appliances in, upon, under, over, across or along the public roads, streets or

other public ways in which the authority has the right to own, construct, operate or maintain transportation facilities to remove the public utility structures and appliances from their locations. If any person or corporation owning or operating public utility structures and appliances fails or refuses to remove or relocate them, the authority may remove or relocate them. The authority shall provide the new location which the structures or appliances as relocated shall occupy, and to that end the authority is hereby authorized to acquire by purchase or by the exercise of the power of eminent domain any necessary land or right-of-way for such purpose if the new location shall not be in, on or above a highway, road or street. The exact new location shall be chosen by agreement of the authority and the utility. Upon the completion of the relocation, the authority shall reimburse the public utility for the cost of relocation which shall be the entire amount paid by the utility properly attributable to the relocation of the structure or appliance after deducting the cost of any increase in the service capacity of the new structure or appliance and any salvage value derived from the old structure or appliance.

(2) If an issue shall arise between the authority and the public utility as to the amount of the cost of relocation or the new location, either party may institute a proceeding by complaint before the Pennsylvania Public Utility Commission, which is hereby given exclusive jurisdiction to hear and determine the issue. Appeal from the order of the commission in any proceeding may be taken in the same manner as is prescribed by law for appeals from other orders of the commission.

(b) Eminent domain.--

(1) The authority shall have the right of eminent domain which may be exercised, either within or without the metropolitan area, to acquire private property and property devoted to any public use which is necessary for the purposes of the authority, except property of a public utility operating transportation facilities extending beyond the boundaries of the metropolitan area.

(2) The authority shall have the right of eminent domain to acquire property of any railroad which property is not used for or in connection with the transportation of persons or property and to acquire rights and easements across, under or over the right-of-way of such railroad whenever the authority shall acquire the private right-of-way or other property of a public utility used or useful in its service to the public.

(3) It shall, before requiring the removal of the existing structures and appliances, provide a new location for the structures and appliances and, upon the completion of relocation, reimburse the public utility for the cost thereof in the manner provided in subsection (a).

(c) Title.--Title to any property acquired by an authority through eminent domain shall be an absolute ownership or fee simple title unless a lesser title shall be designated specifically in the eminent domain proceedings.

(d) Public utilities.--Real and personal property of any kind whatever belonging to a public utility corporation providing transportation or transportation-related services may be acquired without the approval of the Pennsylvania Public Utility Commission. In all cases involving the facilities of a railroad, any operations of which extend beyond the metropolitan area, the exercise of the power of the authority under this

subsection shall be subject to the jurisdiction of that commission under Title 66 (relating to public utilities).

(e) Certain property exempt.--No property owned or used by the United States, the Commonwealth, any political subdivision thereof or any body politic and corporate organized as an authority under any law of this Commonwealth or by any agency of any of them nor property used for burial purposes or places of public worship shall be taken under the right of eminent domain without the consent of the owner or user thereof.

(f) Negotiation.--Before exercising the power of eminent domain, reasonable efforts shall be made by the authority to achieve the desired result through negotiation.

§ 1745. Use of ways occupied by passenger utilities.

The authority shall not have the right to use any street or public way occupied prior to January 15, 1964, by a public utility engaged in local passenger transportation for a competing purpose without the agreement of the public utility.

§ 1746. Transfer of records by Pennsylvania Public Utility Commission.

In case the authority acquires the plant, equipment, property and rights in property of any public utility used or useful in the operation of a transportation system, the Pennsylvania Public Utility Commission shall transfer and deliver to the board, upon its demand, in writing all books, papers and records in control of the commission affecting the public utility exclusively.

§ 1747. Acquisition of equipment.

(a) General rule.--The authority shall have power to purchase or otherwise acquire the ownership or use of or access to equipment, such as cars, trolley buses, street cars, buses, monorails, railroad motive power, trains, railroad passenger cars and equipment, subway passenger cars and equipment, elevated passenger or passenger and rail rolling stock, self-propelled and gallery cars, locomotives, rails, lines, poles and wires, as well as any equipment necessary for the improvement of or overhaul of any of the foregoing, and any other equipment which, in the judgment of the authority, may be useful in the operation of a transportation system. The authority shall have the power to execute agreements, leases and equipment trust certificates in a form satisfactory to the authority to effect the purchase or acquisition and may dispose of such equipment trust certificates, provided that the certificates shall be offered for sale in a manner similar to that provided for the sale of bonds in this chapter. All money required to be paid by the authority under the provisions of the agreements, leases and equipment trust certificates shall be payable solely from the revenue or income to be derived from the transportation system and from grants and loans as provided elsewhere in this chapter. Payment for the equipment or rentals therefor may be made in installments and the deferred installments may be evidenced by equipment trust certificates payable solely from such revenue, income, grants or loans and title to the equipment shall not vest in the authority until the equipment trust certificates are paid.

(b) Trustee.--The agreement to purchase may direct the vendor to sell and assign the equipment to a bank, bank and trust company or trust company duly authorized to transact business in this Commonwealth as trustee for the benefit and security of the equipment trust certificates and may direct the trustee to deliver the equipment to one or more designated officers of the authority and may authorize the trustee

simultaneously therewith to execute and deliver a lease of the equipment to the authority.

(c) Authorization and acknowledgment.--The agreements and leases shall be duly acknowledged before some person authorized by law to take acknowledgments of deeds and in the form required for acknowledgments of deeds, and such agreements, leases and equipment trust certificates shall be authorized by resolution of the board and shall contain such covenants, conditions and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust certificates from the revenue or income to be derived from the transportation system.

(d) Provisions of agreements.--The covenants, conditions and provisions of the agreements, leases and equipment trust certificates shall not conflict with any of the provisions of any trust indenture securing the payment of bonds of the authority.

(e) Filing.--An executed copy of each agreement and lease shall be filed in the Office of the Secretary of the Commonwealth who shall be entitled to receive $1 for each copy filed. This filing shall constitute notice to any subsequent judgment creditor or any subsequent purchaser. Each vehicle so purchased and leased shall have the name of the owner and lessor plainly marked upon both sides thereof, followed by the words "Owner and Lessor."

§ 1748. Transfers of facilities or things of value to any authority.

Any person may and is hereby authorized to sell, lease, lend, grant, convey, transfer or pay over to any authority, with or without consideration, any project or any part or parts thereof, or any interest in real or personal property or any funds available for building construction or improvement purposes, including the proceeds of bonds previously or hereafter issued for building construction or improvement purposes, or any money or thing of value, including services, which may be used by the authority in the construction, acquisition, improvement, maintenance or operation of any project or for any other of its corporate purposes, any other law to the contrary notwithstanding.

§ 1749. Compacts to finance operations and particular projects.

(a) General rule.--The counties and municipalities in any metropolitan area shall enter into a compact or compacts among themselves and/or with the authority to provide for meeting the authority's capital or operating budget by appropriations, annual or otherwise, of such sums and in such proportions as may be agreed upon in the compact to be paid by each signatory party thereto. The obligation incurred thereby shall be for the term as set forth in the compact without regard to the provisions of any law, ordinance or regulation to the contrary and shall constitute a commitment and obligation, binding and absolute, on the part of each signatory party to appropriate and pay over the necessary funds in accordance therewith. The operating budget shall include all sums of money necessary for the formation and organization of any authority and all items of operating expenses in connection with the authority, as well as necessary funds for planning and research appropriate and consistent with the purposes of this chapter and any compact entered into under this chapter.

(b) Financing of particular projects.--A compact may also provide for the financing of a particular mass transportation project in such manner as shall be provided for in the compact.

(c) Commitment of party.--Whenever a party signatory to a compact thereby expresses its approval of the budget for

financing a particular project, this shall then constitute a commitment and obligation, binding and absolute, on the part of the party signatory to appropriate the necessary funds in accordance therewith.

(d) Commitment of county or municipality.--No commitment or obligation involving the payment of moneys to or on behalf of the authority shall exist in any instance on the part of any county or other municipality within the metropolitan area unless and until the commitment or obligation shall first have been expressly and lawfully undertaken and assumed by the county or other municipality.

§ 1750. Contracts, procurement and sale of property.

(a) Competitive bids.--Except in the purchase of unique articles or articles which, for any other reason, cannot be obtained in the open market and except as provided in section 1741 (relating to general powers) and as provided in this chapter, competitive bids shall be secured before any purchase or sale, by contract or otherwise, is made or before any contract is awarded for construction, alterations, supplies, equipment, repairs or maintenance or for rendering any services to the authority other than professional services. Purchases shall be made from or the contract shall be awarded to the lowest responsive, responsible bidder. Sales shall be made to the highest responsive, responsible bidder. No purchase of any unique article or other articles which cannot be obtained in the open market shall be made without express approval of the board where the amount involved is in excess of $25,000. The authority shall not be subject to 62 Pa.C.S. Ch. 39 (relating to contracts for public works). Nothing in this section or any other law of this Commonwealth shall require the authority to competitively bid architectural design, engineering, construction management or other professional services required by the authority.

(b) Procedure.--All purchases and sales in excess of $25,000 shall be awarded after advertising in a local newspaper of general circulation in the metropolitan area at least two weeks prior to the bid opening. Bids shall be publicly opened and read aloud at a date, time and place designated in the invitation to bid. Invitations to bid shall be sent at least one week prior to the bid opening to at least three potential bidders who are qualified technically and financially to submit bids, or, in lieu thereof, a memorandum shall be kept on file showing that less than three potential bidders so qualified exist in the market area within which it is practicable to obtain bids.

(c) Qualified vendors.--(Deleted by amendment).

(d) Small purchases.--Except as set forth in 62 Pa.C.S. § 3742 (relating to procurement limits for mass transportation authorities), purchases or sales with a base price under $18,500, subject to adjustment under subsection (l), may be negotiated with or without competitive bidding under sound procurement procedures as promulgated and established by the general manager.

(e) Waiver.--Competitive bidding requirements may be waived if it is determined by the general manager, or in such other manner as the board may provide, that an emergency directly and immediately affecting customer service or public health, safety or welfare requires immediate delivery of supplies, materials, equipment or services. A record of circumstances explaining the emergency shall be submitted to the board at its next regular meeting and thereafter kept on file.

(f) Sale or lease of real property.--Contracts for the sale or lease of real property owned by the authority shall be awarded after competitive bidding as shown in subsection (b), except as provided in section 1741(a)(22) where the contract is entered into with the Commonwealth or any government agency or with the United States government or any agency or instrumentality thereof or as provided in section 1741(a)(24).

(g) Property management contracts.--Contracts for the management of authority-owned property, such as bus routes or subway systems, may be negotiated and awarded by an affirmative vote of one more than a majority of all members of the board.

(h) Avoidance prohibited.--Requirements shall not be split into parts for the purpose of avoiding the provisions of this section.

(i) Rejection of bids.--The authority shall have the right to reject any or all bids or parts of any or all bids, whenever, in the opinion of the board, rejection is necessary for the protection of the interests of the authority. In every case, a record shall be made setting forth the reason for the rejection, which record shall thereafter be kept on file.

(j) Rules and regulations.--The board may by resolution adopt policies to effectuate the provisions of this section.

(k) Concessions.--All concessions granted by the authority for the sale of products or the rendition of services for a consideration on authority property shall be awarded only under written specifications after competitive bidding and to the highest responsive, responsible bidder in a manner similar to that required by subsection (b). This requirement for competitive bidding shall not apply to any concession which has been granted by a transportation system acquired by the authority and which by the terms of the agreement granting it will terminate within one year from date of the acquisition of the transportation system by the authority nor to any concession involving the estimated receipt by the authority of less than the base amount of $18,500, subject to adjustment under subsection (l), over the period for which the concession is granted.

(l) Adjustments.--Adjustments to the base amounts specified under subsections (b), (d) and (k) shall be made as follows:

(1) The Department of Labor and Industry shall determine the percentage change in the Consumer Price Index for All Urban Consumers: All Items (CPI-U) for the United States City Average as published by the United States Department of Labor, Bureau of Labor Statistics, for the 12-month period ending September 30, 2012, and for each successive 12-month period thereafter.

(2) If the department determines that there is no positive percentage change, then no adjustment to the base amounts shall occur for the relevant time period provided for in this subsection.

(3) (i) If the department determines that there is a positive percentage change in the first year that the determination is made under paragraph (1), the positive percentage change shall be multiplied by each base amount, and the products shall be added to the base amounts, respectively, and the sums shall be preliminary adjusted amounts.

(ii) The preliminary adjusted amounts shall be rounded to the nearest $100 to determine the final adjusted base amounts for purposes of subsections (b), (d) and (k).

(4) In each successive year in which there is a positive percentage change in the CPI-U for the United States City Average, the positive percentage change shall be multiplied by the most recent preliminary adjusted amounts, and the products shall be added to the preliminary adjusted amount of the prior year to calculate the preliminary adjusted amounts for the current year. The sums thereof shall be rounded to the nearest $100 to determine the new final adjusted base amounts for purposes of subsections (b), (d) and (k).

(5) The determinations and adjustments required under this subsection shall be made in the period between October 1 and November 15 of the year following the effective date of this subsection and annually between October 1 and November 15 of each year thereafter.

(6) The final adjusted base amounts and new final adjusted base amounts obtained under paragraphs (3) and (4) shall become effective January 1 for the calendar year following the year in which the determination required under paragraph (1) is made.

(7) The department shall publish notice in the Pennsylvania Bulletin prior to January 1 of each calendar year of the annual percentage change determined under paragraph (1) and the unadjusted or final adjusted base amounts determined under paragraphs (3) and (4) at which competitive bidding is required under subsection (b) or (k) and the amount at which competitive bidding may apply to purchase sales under subsection (d), for the calendar year beginning the first day of January after publication of the notice. The notice shall include a written and illustrative explanation of the calculations performed by the department in establishing the unadjusted or final adjusted base amounts under this subsection for the ensuing calendar year.

(8) The annual increase in the preliminary adjusted base amounts obtained under paragraphs (3) and (4) shall not exceed 3%.

(Nov. 3, 2011, P.L.367, No.90, eff. imd.)

2011 Amendment. Section 4 of Act 90 provided that Act 90 shall apply to contracts and purchases advertised on or after January 1 of the year following the effective date of section 4.

§ 1751. Fiscal provisions.

(a) Fiscal year and budget.--The board shall establish a fiscal year for operations and a fiscal year for capital programs. At least 90 days prior to the beginning of the first full fiscal year after the creation of the authority and annually thereafter, the board shall cause to be prepared and submitted to it a tentative operating budget and a tentative capital budget for the ensuing fiscal year. The tentative budgets shall be considered by the board and, subject to any revision and amendments as may be determined, shall be adopted prior to the first day of the ensuing fiscal year as the budgets for that year. The board shall establish such rules as are necessary for proper observance of the budgets. Simultaneously with the adoption of the capital budget, the board shall adopt a tentative capital program covering the ensuing six years.

(b) Procedure.--A public hearing shall be conducted prior to the adoption of the final operating budget and tentative capital program. Notice of the public hearing shall be published in two newspapers of general circulation and a publication

specifically designed to reach minorities not fewer than 30 days prior to the hearing.

§ 1752. Financial statements and audit.

(a) Statement.--As soon after the end of each fiscal year as is feasible, the board shall cause to be prepared and printed a report and financial statement of the authority's operations for the previous year and of its assets and liabilities prepared in accordance with generally accepted accounting principles. A reasonably sufficient number of copies of the report shall be printed for distribution to persons interested, upon request. A copy of the report shall be filed with the Secretary of the Commonwealth, the county clerk of each county in the metropolitan area and the clerk of each municipality which has granted rights to the authority by ordinance, and a copy of the report shall be addressed to and mailed to the mayor and city council or the governing body of the municipality. The board from time to time shall mail, to the persons and offices specified, copies of the interim financial reports as may be prepared by the authority, copies of all bylaws, rules and regulations and amendments thereto and copies of the annual financial budgets.

(b) Audit.--The board shall appoint in due time each year a firm of independent certified public accountants as auditors who shall examine the books, records and accounts, operations and assets and liabilities of the authority for the purpose of auditing and reporting upon its financial statements for such year. The auditors shall audit the books, records, accounts, operations and assets and liabilities of the authority in accordance with generally accepted auditing standards. The report of the auditors shall be appended to the financial statement.

§ 1753. Aid from Federal Government.

In addition to the powers conferred upon any authority by other provisions of this chapter, the authority is empowered to borrow or accept money or accept grants or other financial assistance from any Federal agency for or in aid of the authority's operations. It is the purpose and intent of this chapter to authorize the authority, and the authority is so authorized, to do any and all things necessary or desirable to secure the financial aid or cooperation of any Federal agency in any of the authority's operations. These things may include, without limiting the generality of the foregoing, the power to change or revise rates, fares and charges, to make relocation payments to families, businesses and nonprofit organizations, to provide an areawide transportation plan or program for the development of a comprehensive and coordinated mass transportation system for the metropolitan area, to carry out research, development and demonstration projects and to provide a share of the cost of any project and all as may be required by any Federal law or by the requirements of any Federal agency authorized to administer any Federal program of aid to any mass transportation program.

SUBCHAPTER D
FUNDS AND BONDS OF AUTHORITIES

Sec.

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§ 1761. Management of funds.

(a) General rule.--All funds of an authority received from any source shall be delivered to the treasurer of the authority or to such other agent of the authority as the board may designate. The funds shall be promptly deposited in the name of the authority in a bank or banks, bank and trust company or bank and trust companies, trust company or trust companies in this Commonwealth chosen by the authority. The moneys in the account or accounts may be withdrawn or paid out only by check or draft upon the bank, bank and trust company or trust company, signed by the treasurer or other designated agent of the authority on warrant of the treasurer of the authority and countersigned by the chairman of the board or by such persons as the board may authorize. Moneys in the account or accounts may be withdrawn or paid out by electronic funds transfer on instructions signed and countersigned in the manner provided for checks or drafts. The board may designate any of its members or any officer or employee of the authority to affix the signature of the chairman to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than $100,000. The general manager may designate any officer or employee of the authority to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for the payment of any other obligation of not more than $100,000.

(b) Management of funds.--

(1) All bank, bank and trust company or trust company balances of the authority, to the extent the same are not insured, shall be continuously secured by a pledge of direct obligations of the United States, of the Commonwealth or of any municipality or municipalities in the metropolitan area having an aggregate market value exclusive of accrued interest at all times at least equal to the balance on deposit in such bank, bank and trust company or trust company. The securities shall either be deposited with the treasurer of the authority or be held by a trustee or agent satisfactory to the authority. All depository institutions are authorized to give security for the deposits.

(2) Subject to the provisions of any agreements with obligees of the authority, all funds of the authority, including, but not limited to, the proceeds of bonds that are not required for immediate use may be invested by the board consistent with sound business practice. The board shall provide for an investment program subject to restrictions contained in this chapter and in any other applicable statute and any resolutions on this subject adopted by the board.

(c) Authorized investments.--The authorized types of investments for authority funds shall be any of the following:

(1) Government obligations.

(2) Debt obligations issued by any of the following Federal agencies or such other like Federal agencies which may be designated by the board: Bank for Cooperatives,

Federal Farm Credit Banks, Federal Financing Bank, Federal Home Loan Bank System, Federal National Mortgage Association, Export-Import Bank of the United States, Farmers Home Administration, Resolution Funding Corporation, Small Business Administration, Student Loan Marketing Association, Inter-American Development Bank, International Bank for Reconstruction and Development, Federal Land Banks or Government National Mortgage Association, and their predecessor or successor agencies.

(3) Short-term or long-term debt obligations of any state or political subdivision thereof or any agency or instrumentality of such a state or political subdivision or of any municipal corporation, provided that the obligations are rated by a rating agency in any of the three highest rating categories (without reference to subcategories) assigned by the rating agency.

(4) Rights to receive the principal of or the interest on obligations of states, political subdivisions, agencies or instrumentalities meeting the requirements set forth in paragraphs (2) and (3), whether through direct ownership as evidenced by physical possession of the obligations or unmatured interest coupons or by registration as to ownership on the books of the issuer or its duly authorized paying agent or transfer agent or through the purchase of certificates or other instruments evidencing an undivided ownership interest in payments of the principal of or interest on the obligations.

(5) Negotiable and nonnegotiable certificates of deposit, time deposits or other similar banking arrangements which are issued by banks, bank and trust companies, trust companies or savings and loan associations, provided that, unless issued by a qualified financial institution, any such certificate, deposit or other arrangement shall be continuously secured as to principal in the manner and to the extent provided in subsection (d).

(6) Repurchase agreements for investment securities described in paragraph (1) or (2) with a qualified financial institution or with dealers in government bonds which report to, trade with and are recognized as primary dealers by a Federal Reserve Bank and are members of the Securities Investors Protection Corporation, provided that the repurchase price payable under any agreement shall be continuously secured in the manner and to the extent provided in subsection (d).

(7) Investment agreements with qualified financial institutions.

(8) Commercial paper rated in the highest rating category, without reference to subcategories, by a rating agency.

(9) Shares or certificates in any short-term investment fund rated in the highest rating category (without reference to subcategories) by a rating agency, which short-term investment fund invests solely in obligations described in paragraphs (1) and (2).

(10) Debt obligations of any foreign government or political subdivision thereof or any agency or instrumentality of foreign government or political subdivision, provided that the obligations are rated by a rating agency, without reference to subcategories, in the highest rating category assigned by the rating agency.

(11) Such other investments which at the time of the acquisition thereof shall be listed as permissible

investments for trust funds in an indenture or resolution with respect to indebtedness which is incurred under this chapter.

(d) Security for investment securities.--Any security required to be maintained as collateral for investment securities in the form of certificates of deposit, time deposits, other similar banking arrangements and repurchase agreements described in subsection (c)(5) and (6) shall be subject to the following requirements:

(1) The collateral shall be in the form of obligations described in subsection (c)(1) and (2), except that the security for certificates of deposit, time deposits or other similar banking arrangements may include other marketable securities which are eligible as security for trust funds under applicable regulations of the Comptroller of the Currency of the United States of America or under applicable state laws and regulations.

(2) The collateral shall have an aggregate market value, calculated not less frequently than monthly, at least equal to the principal amount (less any portion insured by the Federal Deposit Insurance Corporation or any comparable insurance corporation chartered by the United States of America) or the repurchase price secured thereby, as the case may be. The instruments governing the issuance of and security for the Investment Securities shall designate the person responsible for making the foregoing calculations.

(3) The authority shall have a perfected security interest in the collateral securing certificates of deposit, time deposits or other similar banking arrangements, and the collateral shall be held free and clear of the claims of third parties. The collateral shall be deposited with the authority, with a Federal Reserve Bank for the account of the authority or with a bank, bank and trust company or trust company (other than the obligor) which is acting solely as agent for the authority and has a combined net capital and surplus equal to at least $100,000,000.

(4) Collateral for repurchase agreements shall be held free and clear of the claims of third parties by the authority, or by a Federal Reserve Bank for the account of the authority, or by a bank, bank and trust company or trust company which is acting solely as agent for the authority and has a combined net capital and surplus at least equal to $100,000,000. A perfected first priority security interest for the benefit of the authority shall be created in the collateral under Title 13 (relating to commercial code) or book entry procedures prescribed by applicable Federal regulations.

Cross References. Section 1761 is referred to in section 1741 of this title.

§ 1762. Special funds.

An authority, under resolutions adopted from time to time by the board, may establish and create such special funds as may be found desirable by the board and, in and by such resolutions, may provide for payments into all special funds from specified sources with such preferences and priorities as may be deemed advisable and may provide for the custody, disbursement and application of any moneys in any such special funds consistent with the provisions of this subchapter and consistent with generally accepted accounting principles.

§ 1763. Bonds.

(a) General rule.--

(1) The bonds of the authority shall be authorized by resolution of the board thereof and shall be of such series, bear such date or dates, bear or accrue interest at such rate or rates, fixed or variable, as shall be determined by the board as necessary to issue and sell the authorized bonds, be in such denominations, be in such form, either coupon or fully registered without coupons, be in certificated or book-entry-only form, carry such registration and exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, be subject to such terms of redemption and be entitled to such priorities of payment in the revenues or receipts of the authority as the resolution or trust indenture adopted or approved by the authority may provide.

(2) The bonds shall be signed by or shall bear the facsimile signatures of such officers as the board shall determine, and coupon bonds shall have attached thereto interest coupons bearing the facsimile signature of the treasurer of the authority, and all bonds shall be authenticated by an authenticating agent, fiscal agent or trustee, all as may be prescribed in the resolution or trust indenture.

(3) Any such bonds may be issued and delivered notwithstanding that one or more of the officers signing bonds or the treasurer whose facsimile signature shall be upon the coupon, or any thereof, shall have ceased to be an officer or officers at the time when the bonds shall actually be delivered.

(4) The proceeds of an issue of bonds may be used to pay the costs of a project; subject to the limitations of subsection (b), to finance any cash flow deficit of the authority; to reimburse any costs of a project initially paid by the authority or any person; to fund any required reserves; to capitalize interest; or to pay costs of issuance, including, but not limited to, costs of obtaining credit enhancement for the bonds.

(b) Maturity.--Bonds issued to finance the costs of a project shall mature at such time or times not exceeding 40 years from their respective dates of original issue as the authority shall by resolution determine. Bonds issued in anticipation of income of the authority shall mature within one fiscal year after the fiscal year of the date of issuance thereof, except for bonds issued in anticipation of grants with respect to the cost of a project, which bonds shall mature no later than six months beyond the time of anticipated receipt of the final payment of the grant.

(c) Sale.--Bonds may be sold at public sale or invited sale for such price or prices and at such rate or rates of interest as the authority shall determine. Bonds may be sold at private sale by negotiation at such price or prices and at such rate or rates of interest as the authority shall determine, but only if the authority makes a written public explanation of the circumstances and justification for the private sale by negotiation. Pending the preparation of the definitive bonds, interim receipts may be issued to the purchaser or purchasers of such bonds and may contain such terms and conditions as the authority may determine.

(d) Negotiable instruments.--Bonds of an authority shall have the qualities of negotiable instruments under Title 13 (relating to commercial code).

(e) Refunding.--

(1) Subject to the provisions of the outstanding bonds, notes or other obligations issued under this chapter or prior acts and subject to the provisions of this chapter, the authority shall have the right and power to refund any outstanding debt, whether the debt represents principal or interest, in whole or in part, at any time.

(2) As used in this subsection, "refund" and its variations shall mean the issuance and sale of obligations the proceeds of which are used or are to be used for the payment or redemption of outstanding obligations upon or prior to maturity. Refunding bonds shall mature at such time or times not exceeding 40 years from their dates of original issuance as the authority shall determine by resolution.

(f) Credit of Commonwealth and political subdivisions not pledged.--Under no circumstances shall any bonds issued by the authority or any other obligation of the authority be or become an indebtedness or liability of the Commonwealth or of any government agency, provided that any government agency may guarantee bonds of an authority to the extent and for the purposes for which the government agency may make loans or grants to an authority.

(g) Nonliability.--Neither the board members, any employees of the authority nor any person executing the bonds shall be liable personally on any bonds by reason of the issuance thereof. Bonds of an authority shall contain a statement of the limitation set forth in this subsection.

(h) Bonds deemed valid.--Any bond reciting in substance that it has been issued by the authority to accomplish the public purposes of this subchapter shall be conclusively deemed in any suit, action or proceeding involving the validity or enforceability of the bonds or security therefor to have been issued for such purpose.

(i) Notice and challenges.--

(1) The authority may cause a copy of any resolution authorizing the issuance of bonds adopted by it to be filed for public inspection in its office and in the office of the clerk of the governing body of each county and the governing body of the city of the first class within its service area and may thereupon cause to be published in a newspaper published or circulating in its service area a notice stating the fact and date of the adoption, the places where the resolution has been so filed for public inspection, the date of publication of the notice and that any action or proceeding of any kind or nature in any court questioning the validity or proper authorization of bonds provided for by the resolution, or the validity of any covenants, agreements or contract provided for by such resolution, shall be commenced within 20 days after the publication of the notice.

(2) If any notice shall at any time be published and if no action or proceeding questioning the validity or proper authorization of bonds provided for by the resolution or the validity of any covenants, agreements or contract provided for by such resolution shall be commenced within 20 days after the publication of the notice, then all residents, taxpayers and owners of property in the service area and users of the transportation system of the authority and all other persons whatsoever shall be forever barred and foreclosed from instituting or commencing any action or proceeding in any court or pleading any defense to any action or proceedings questioning the validity or proper authorization of such bonds or the validity of any such

covenants, agreements or contracts, and said bonds, covenants, agreements and contracts shall be conclusively deemed to be valid and binding obligations in accordance with their terms and tenor.

(3) After issuance of bonds, all bonds shall be conclusively presumed to be fully authorized and issued by all the laws of this Commonwealth, and any person shall be estopped from questioning their sale, execution or delivery by the authority.

§ 1764. Contracts with obligees of an authority.

Except as otherwise provided in any resolution of an authority authorizing or awarding bonds, the terms thereof and of this chapter as in effect when the bonds were authorized shall constitute a contract between the authority and obligees of the authority, subject to modification in such manner as the resolution, the trust indenture securing such bonds or the bonds shall provide.

§ 1765. Commonwealth pledges.

(a) Limitation of powers.--

(1) The Commonwealth does hereby pledge to and agree with any person, firm or corporation, government agency, whether in this Commonwealth or elsewhere, or Federal agency subscribing to or acquiring the bonds to be issued by the authority that the Commonwealth will not limit or alter the rights hereby vested in the authority in any manner inconsistent with the obligations of the authority to the obligees of the authority until all bonds at any time issued, together with the interest thereon, are fully paid or provided for. The Commonwealth does further pledge to and agree with any Federal agency that, in the event that any Federal agency shall contribute any funds for the authority or any project, the Commonwealth will not alter or limit the rights and powers of the authority in any manner which would be inconsistent with the due performance of any agreements between the authority and any Federal agency.

(2) The Commonwealth does hereby pledge to and agree with any person who, as owner thereof, leases or subleases property to or from an authority that the Commonwealth will not limit or alter the rights and powers hereby vested in the authority or otherwise created by this chapter in any manner which impairs the obligations of the authority until all obligations of the authority under the lease or sublease are fully met and discharged.

(b) Tax proceeds.--If and to the extent that the authority pledges its share of the proceeds of a tax authorized by law to be levied for authority purposes or made available for use by the authority as security for the payment of bonds issued by the authority, the Commonwealth does hereby pledge to and agree with any person, firm or corporation, government agency, whether in this Commonwealth or elsewhere, or Federal agency subscribing to or acquiring such bonds to be issued by the authority that the Commonwealth itself will not, nor will it authorize any government entity levying such tax to, abolish or to reduce the rate of tax imposed for authority purposes or made available for use by the authority until all bonds so secured by the pledge of the authority, together with the interest thereon, are fully paid or provided for.

§ 1766. Provisions of bonds and trust indentures.

In connection with the issuance of bonds or the incurring of obligations under leases, and in order to secure the payment of the bonds and obligations, the authority, in addition to its other powers, shall have the power to:

(1) Pledge or grant a security interest, senior, parity or subordinated, in all or any part of its revenues, including, but not limited to, the proceeds of any tax levied for the purposes of or made available for use by the authority, to which its right then exists or may thereafter come into existence.

(2) Grant a lien on or a security interest in, senior, parity or subordinated, in all or any part of its real or personal property then owned or thereafter acquired, provided, however, that no such lien shall extend to real property of an authority comprising rights-of-way, easements or any other interests in real property used or useful for passage of transportation vehicles or necessary for the safe and sound routing or control of transportation vehicles.

(3) Provide for the issuance of unsecured bonds, limited recourse bonds or nonrecourse bonds.

(4) Enter into trust indentures securing bonds, including, but not limited to, master trust indentures.

(5) Covenant against pledging or granting a lien on or security interest in all or any part of its revenues or all or any part of its real or personal property to which its right or title exists or may thereafter come into existence, or against permitting or suffering any lien on the revenues or property, covenant with respect to limitations on its right to sell, lease or otherwise dispose of any of its real property and covenant as to which other or additional debts or obligations may be incurred by it.

(6) Covenant as to the bonds to be issued and as to the issuance of such bonds, in escrow or otherwise, and as to the use and disposition of the proceeds thereof, provide for the replacement of lost, destroyed or mutilated bonds, covenant against extending the time for the payment of its bonds or interest thereon and covenant for the redemption of bonds and provide the terms and conditions thereof.

(7) Covenant as to the amount of revenues to be raised in each fiscal year or other period of time by the authority, as well as to the use and disposition to be made thereof, create or authorize the creation of special funds for debt service or other purposes and covenant as to the use and disposition of the moneys held in such funds.

(8) Prescribe the procedure, if any, by which the terms of any contract with obligees of the authority may be supplemented, amended or abrogated, prescribe which supplements or amendments will require the consent of obligees of the authority and the amount of bonds to be held by obligees to effect such consent and prescribe the manner in which such consent may be given.

(9) Covenant as to the use of any or all of its real or personal property, warrant its title and covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance proceeds.

(10) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition or obligation, provided that the authority shall not be permitted to covenant that upon such breach any or all of its bonds or obligations the payment of which is secured solely by a pledge of or security interest in the proceeds of a tax authorized by law to be levied for authority purposes or made available by an authority shall become or may be declared due before the stated maturity thereof.

(11) Vest in the obligees of the authority or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; vest in a trustee the right, in the event of default by the authority, to take possession and use, operate and manage any real or personal property and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with such trustee; provide for the powers and duties of a trustee and to limit liabilities thereof; and provide the terms and conditions upon which the trustee or the obligees of the authority or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(12) Negotiate and enter into interest rate exchange agreements, interest rate cap, collar, corridor, ceiling and floor agreements, forward agreements, float agreements and other similar arrangements which, in the judgment of the authority, will assist the authority in managing the interest costs of the authority.

(13) Obtain letters of credit, bond insurance and other facilities for credit enhancement and liquidity.

(14) Exercise all or any part or combination of the powers granted in this section to make covenants other than and in addition to the covenants expressly authorized in this section, to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of the authority, as will tend to accomplish the purposes of this chapter, by making the bonds more marketable notwithstanding that such covenants, acts or things may not be specifically enumerated in this section.

(15) Except as specifically authorized by this chapter, the real property of the authority shall not be mortgaged and shall not be subject to attachment nor levied upon by execution or otherwise. The revenues of the authority and the real and tangible personal property of the authority shall be pledged or otherwise encumbered only as expressly provided in this section and, except to the extent necessary to effectuate such pledge or encumbrance, shall not be subject to attachment nor levied upon by execution or otherwise.

§ 1767. Bonds to be legal investments.

Bonds issued under this chapter are hereby made securities in which all public officers and the instrumentalities and agencies of the Commonwealth and its political subdivisions, all insurance companies, banks, bank and trust companies, trust companies, banking associations, banking corporations, savings banks, investment companies, executors, trustees, the trustees of any retirement, pension or annuity fund or system of the Commonwealth and other fiduciaries may properly and legally invest funds, including capital, deposits or other funds in their control or belonging to them. These bonds are hereby made securities which may properly and legally be deposited with and received by any Commonwealth or municipal officer or any agency or instrumentality or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth now or may hereafter be authorized by law.

§ 1768. Rights and remedies.

(a) Additional rights.--An obligee of an authority shall have the right, in addition to all other rights which may be

conferred on the obligee, subject only to any contractual restrictions binding upon the obligee:

(1) By mandamus, suit, action or proceeding at law or in equity, to compel the authority and the members, officers, agents or employees thereof to perform each and every term, provision and covenant contained in any bond or contract of the authority with or for the benefit of the obligee and to require the carrying out of any or all covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter.

(2) By proceeding in equity, to obtain an injunction against any acts or things which may be unlawful or the violation of any of the rights of the obligee of the authority.

(3) To require the authority to account as if it were the trustee of an express trust for the obligees of the authority for any pledged revenues received.

(4) To enforce a pledge of or security interest in revenues of the authority securing payment of the bonds against all Commonwealth and local public officials in possession of any revenues at any time, which revenues may be collected directly from such officials upon notice by the obligee of the authority or a trustee for application to the payment of the bonds as and when due for deposits in any sinking, bond or debt service fund established with the trustee at the times and in the amounts specified in the bonds or the resolution or indenture or trust agreement securing the bonds. Any Commonwealth or local public official in possession of any revenues shall make payment against receipt and shall thereby be discharged from any further liability or responsibility for the revenues. If the payment shall be to an obligee of the authority, it shall be made against surrender of the bonds to the payor for delivery to the authority in the case of payment in full; otherwise, it shall be made against production of the bonds for notation thereon of the amount of the payment. The provisions of this section with respect to the enforceability and collection of revenues which secure bonds of the authority shall supersede any contrary or inconsistent statutory provision or rule of law.

(b) Application of section.--This section shall be construed and applied to fulfill the legislative purpose of clarifying and facilitating the financing of the authority of the costs of its transportation system by assuring to the obligees of the authority the full and immediate benefit of the security therefor without delay, diminution or interference based on any statute, decision, ordinance or administrative rule or practice.

§ 1769. Additional remedies conferrable by an authority.

An authority shall have power, by its resolution, trust indenture or loan or lease agreement, to confer upon any obligees holding or representing a specified percentage of bonds, or upon any bond insurer or provider of a letter of credit or other credit or liquidity facility, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default or such particular events of default as may be specified in such resolution or instrument, by suit, action or proceeding in any court of competent jurisdiction to obtain the appointment of a receiver of any real property or personal property or leasehold interest of the authority and of the rents and profits therefrom. If a receiver is appointed, the receiver may enter and take possession of such real property or any leasehold interest, operate the same

and collect and receive all revenues or other income thereafter arising therefrom and shall keep such moneys in a separate account and apply the same in accordance with the obligations of the authority as the court shall direct. Nothing in this section or any other section of this chapter shall authorize any receiver appointed under this chapter for the purpose of operating and maintaining any facilities of the authority to sell, assign, mortgage or otherwise dispose of any of the assets, of whatever kind or character, belonging to the authority, except for the sale or other disposition of moveable equipment or other tangible personal property in the ordinary course of business or the sale or disposition of real or personal property to the extent it is pledged to secure the authority's bonds. It is the intention of this chapter to limit the powers of the receiver to the operation and maintenance of the facilities of the authority as the court shall direct, and no obligee of the authority shall ever have the right in any suit, action or proceeding, at law or in equity, to compel a receiver, nor shall any receiver ever be authorized or any court be empowered to direct the receiver, to sell, assign, mortgage or otherwise dispose of any assets, of whatever kind or character, belonging to the authority, except for the expenditure of funds and the sale or other disposition of moveable equipment or other tangible personal property in the ordinary course of business or the sale or disposition of real or personal property to the extent it is pledged to secure the authority's bonds.

§ 1770. Validity of pledge.

Any pledge of or grant of a lien on or security interest in revenues of an authority or real or personal property of an authority made by an authority shall be valid and binding from the time when the pledge is made, the revenues or other property so pledged and thereafter received by the authority making such pledge shall immediately be subject to the lien of any such pledge, lien or security interest without any physical delivery thereof or further act, and the lien of any such pledge or security interest shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument of the authority by which a pledge, lien or security interest is created need be recorded or filed to perfect such pledge or security interest.

§ 1771. Security interest in funds and accounts.

Any moneys deposited in any fund created by the authority pledged to be used to pay debt service on bonds of the authority, including any sinking fund or debt service reserve fund, and all investments and proceeds of investments thereof, shall, without further action or filing, be subjected to a perfected security interest for the obligees of the authority with respect to the bonds until such moneys or investments shall be properly disbursed in accordance with this chapter and subject to the terms of any trust indenture or other contract between the authority and the obligees of the authority with respect to the bonds.

§ 1772. Payment of proceeds of tax levied for authority purposes.

The proceeds of any tax levied for authority purposes or made available for use by the authority and collected by the Department of Revenue, which tax proceeds shall have been pledged by an authority to secure its bonds, shall be transferred by the State Treasurer to or upon the order of the

authority at the times provided by law, subject to any limitations set forth in the resolution of the authority authorizing the bonds.

§ 1773. Limitation on authority under Federal bankruptcy code.

So long as an authority shall have outstanding any bonds issued under this chapter, the authority shall not be authorized to file a petition for relief under 11 U.S.C. Chapter 9 (relating to adjustment of debts of a municipality), and no public officer or agency or instrumentality of the Commonwealth shall authorize the authority to become a debtor under 11 U.S.C. Chapter 9 so long as any bonds issued under this chapter are outstanding.

SUBCHAPTER E
MISCELLANEOUS PROVISIONS

Sec.

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1782. Rights and remedies preserved.
1783. Officers and employees continued.
1784. Continuance of bonds.
1785. Repeal.
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§ 1781. Exemption from taxation.

The effectuation of the authorized purposes of an authority created or continued under this chapter shall and will be in all respects for the benefit of the people of this Commonwealth, for the increase of their commerce and prosperity and for the improvements of their health and living conditions, and, since an authority will, as a public instrumentality of the Commonwealth, be performing essential governmental functions in effectuating such purposes, such an authority shall not be required to pay any taxes or assessments of any kind or nature whatsoever, now in existence or to be enacted in the future, whether imposed by the Commonwealth or by any government agency upon any property or the income therefrom acquired or used or permitted to be used by an authority for such purposes, and the bonds issued by any authority, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from State and local taxation within this Commonwealth. This exemption shall not extend to gift, estate, succession or inheritance taxes or any other taxes not levied directly on the bonds, the transfer thereof, the income therefrom or the realization of profits on the sale thereof.

§ 1782. Rights and remedies preserved.

The provisions of this chapter shall not in any way impair or in any manner affect the rights and remedies of obligees of a continued authority, and, notwithstanding any other provision of this chapter, all such rights and remedies shall be preserved by this chapter and shall be and shall remain valid, binding and enforceable in all respects. As used in this section, "obligees of a continued authority" shall mean the holders of any notes, bonds, refunding notes and bonds, interim certificates, debentures and other evidences of indebtedness, obligees of contracts or other obligations of an authority established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities) and continued under section 1711

(relating to creation of metropolitan transportation authorities).

§ 1783. Officers and employees continued.

With respect to the officers and employees of any authority established under the former provisions of Article III of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, or the former provisions of Chapter 15 (relating to metropolitan transportation authorities), all such officers shall continue in office until the expiration of their respective terms of office, and all employees shall continue in employment under the terms and conditions of their respective contracts or agreements of employment; and all officers and employees shall exercise the powers, functions and duties of their respective offices or employment under this chapter.

§ 1784. Continuance of bonds.

Bonds, contracts and obligations of an authority continued under this chapter which contracts and obligations are in effect or outstanding on the effective date of this chapter shall continue in full force and effect.

§ 1785. Repeal.

All acts and parts of acts are repealed insofar as they are inconsistent with this chapter.

§ 1786. Special prosecutor for mass transit.

(a) Special prosecutor.--Within 30 days of the effective date of this section, the Attorney General shall appoint a special prosecutor to investigate and institute criminal proceedings for a violation of the laws of this Commonwealth occurring within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class in accordance with this section. The following shall apply to the special prosecutor:

(1) The special prosecutor must:

(i) Be a member in good standing of the bar of this Commonwealth for a minimum of 10 years.

(ii) Have a minimum of five years of experience in criminal prosecutions in this Commonwealth.

(iii) Not have been employed by the district attorney's office in a county of the first class or the Office of Attorney General within six years of the effective date of this section.

(iv) Possess the character and fitness compatible with the standards expected to be observed by members of the bar of this Commonwealth.

(v) Be a resident of the county in which the special prosecutor shall serve.

(2) Notwithstanding any other provision of law or regulation, a special prosecutor shall have the authority to investigate and prosecute, and has jurisdiction over, any criminal matter involving an alleged violation of the laws of this Commonwealth occurring within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class. The special prosecutor's prosecutorial jurisdiction shall include the power and independent authority to exercise all investigative and prosecutorial functions and powers of an office of the district attorney of a county of the first class and any other officer or employee of the office of the district attorney in the county of the first class. The special prosecutor's authority shall include, but not be limited to, the following:

(i) Investigative and prosecutorial functions and powers shall include the following:

(A) Conducting proceedings before grand juries and other investigations.

(B) Participating in court proceedings and engaging in any litigation, including civil and criminal matters, that the special prosecutor considers necessary.

(C) Initiating and conducting prosecutions in any court of competent jurisdiction, appealing any decision of a court in a proceeding in which the special prosecutor participates and handling all aspects of any case in the name of the Commonwealth.

(D) Reviewing all documentary evidence available from any source.

(E) Making applications to a State court for a grant of immunity to a witness, consistent with applicable statutory requirements, or for warrants, subpoenas or other court orders.

(ii) (Reserved).

(3) For the purposes of carrying out the duties of the Office of Special Prosecutor, a special prosecutor may use facilities, resources and personnel of the Attorney General, including investigators, attorneys and necessary experts, to assist with a criminal investigation or prosecution. A special prosecutor may request assistance from the Pennsylvania State Police or any law enforcement agency with appropriate jurisdiction in carrying out the functions of the special prosecutor. The Pennsylvania State Police or any law enforcement agency with appropriate jurisdiction may provide assistance, which may include the use of resources and personnel necessary to perform the duties of the special prosecutor.

(4) A special prosecutor may assert preemptive prosecutorial jurisdiction over any criminal actions or proceedings involving alleged violations of the laws of this Commonwealth occurring within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class. The following shall apply:

(i) An assertion of preemptive prosecutorial jurisdiction under this section shall be within the sole discretion of the special prosecutor.

(ii) In cases in which a special prosecutor asserts preemptive prosecutorial jurisdiction under this section, no other prosecuting entity for the Commonwealth shall have authority to act, except as authorized by the special prosecutor.

(iii) A special prosecutor may not assert preemptive prosecutorial jurisdiction under this section in a case where jurisdiction also exists in a county other than a county of the first class unless the special prosecutor requests in writing to the district attorney in the county other than the county of the first class to assert preemptive prosecutorial jurisdiction and the district attorney in the county other than the county of the first class accepts the request in writing.

(iv) When a special prosecutor asserts preemptive prosecutorial jurisdiction under this subparagraph, the office of the district attorney in a county of the first class shall suspend all investigations and proceedings regarding the matter and shall turn over to the special

prosecutor all materials, files and other data relating to the matter.

(v) Notwithstanding any other law or court rule, prior approval of the district attorney of a county of the first class or an employee of the district attorney of a county of the first class shall not be required prior to the filing of any criminal complaint or arrest warrant affidavit, or both, involving any violation of the laws of this Commonwealth occurring within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class.

(5) No person charged with a violation of the law by a special prosecutor shall have standing to challenge the authority of the special prosecutor to prosecute the case. If a challenge is made, the challenge shall be dismissed and no relief shall be available in the courts of this Commonwealth to the individual making the challenge.

(6) If a vacancy in office arises by reason of the resignation, death or removal for any other reason of a special prosecutor, the Attorney General shall appoint a replacement within 30 days.

(7) Each law enforcement agency with jurisdiction in a county of the first class shall notify a special prosecutor of any arrest or other criminal action or proceeding involving an alleged violation of the laws of this Commonwealth occurring within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class within 48 hours of the arrest or of instituting the action or proceeding.

(8) No new action or proceeding may be initiated by a special prosecutor under this section after December 31, 2026. Notice of final disposition of the last remaining action or proceeding initiated under this section prior to December 31, 2026, shall be transmitted to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.

(9) The special prosecutor shall compile reports related to the criminal activity and administrative proceedings within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class, to which the following shall apply:

(i) An initial report shall be submitted no later than 90 days following appointment of the special prosecutor. Following the initial report, annual reports shall be submitted to the General Assembly.

(ii) Reports shall be submitted to the following:

(A) The President pro tempore of the Senate.

(B) The Speaker of the House of Representatives.

(C) The chairperson and minority chairperson of the Judiciary Committee of the Senate.

(D) The chairperson and minority chairperson of the Judiciary Committee of the House of Representatives.

(E) The chairperson and minority chairperson of the Transportation Committee of the Senate.

(F) The chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(iii) Each report shall contain the following information for the period of time between each report:

(A) The total number of arrests for alleged criminal activity within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class.

(B) The total number of bills of information filed for alleged violations within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class.

(C) The total number of convictions resulting from prosecutions by the special prosecutor.

(D) Each sentence imposed for each conviction for a crime committed within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class.

(10) A county of the first class in which a special prosecutor is appointed under this section shall reimburse the special prosecutor and the Office of Attorney General for any expenses incurred while investigating or prosecuting an alleged violation of the laws of this Commonwealth occurring within a public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class. For reimbursement, the special prosecutor shall submit an itemized statement of expenses of the special prosecutor and Office of Attorney General to the treasurer of the county of the first class, who shall pay the expenses from the general funds of the county of the first class within 30 days of receipt of the itemized statement. Reimbursement under this section may not exceed actual expenses incurred in prosecuting any action, including the amount necessary to compensate the special prosecutor.

(11) A special prosecutor appointed under this section shall receive compensation to be paid by the Office of Attorney General at the per diem rate equal to the annual rate of compensation payable to the district attorney of a county of the first class. A special prosecutor shall be entitled to the payment of travel expenses within this Commonwealth.

(12) Notwithstanding section 1401(p) of the act of August 9, 1955 (P.L.323, No.130), known as The County Code, during the period in which a special prosecutor serves in a county of the first class, the Commonwealth may not reimburse that county for the salary of the district attorney of that county. An amount equal to the reimbursement that would have been made if no special prosecutor had been appointed shall be used to reimburse the Office of Attorney General for the compensation of the special prosecutor and any expenses incurred for the purpose of carrying out the duties of the special prosecutor.

(13) This section shall expire upon publication of the notice under paragraph (8).

(14) The Attorney General, the county of the first class, the district attorney of the first class and the public transportation authority that serves as the primary provider of public passenger transportation in the county of the first class must comply with this section until this section expires under paragraph (13).

(15) Notwithstanding any other provision of law, a governing body of a political subdivision or public official may not enact or enforce an ordinance, executive order or directive or take any other official action that would be inconsistent with the provisions of this section or direct a law enforcement agency with appropriate jurisdiction to not assist the special prosecutor if able. An ordinance, executive order or directive or any other official action in violation of this section shall be null and void.

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

"Law enforcement agency." Any of the following:

(1) A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of the criminal or traffic laws.

(2) A campus police or university police department, as used in section 2416 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, certified by the Office of Attorney General as a criminal justice agency under the definition of "criminal justice agency" in 18 Pa.C.S. § 9102 (relating to definitions).

(3) A railroad or street railway police department formed with officers commissioned under 22 Pa.C.S. Ch. 33 (relating to railroad and street railway police) or any prior statute providing for the commissioning.

(4) An airport authority police department.

(5) A county park police force under section 2511(b) of The County Code.

(Dec. 14, 2023, P.L.369, No.40, eff. imd.)

2023 Amendment. Act 40 added section 1786.

CHAPTER 21
MULTIMODAL FUND

Sec.

2101. Definitions.
2102. Multimodal Transportation Fund.
2103. Transfers and deposits to fund.
2104. Use of money in fund.
2105. Project selection criteria.
2106. Local match.
2107. Balanced Multimodal Transportation Policy Commission (Repealed).

Enactment. Chapter 21 was added November 25, 2013, P.L.974, No.89, effective immediately.

Special Provisions in Appendix. See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 2101. Definitions.

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

"Eligible program." Any of the following:

(1) A project which coordinates local land use with transportation assets to enhance existing communities.

(2) A project related to streetscape, lighting, sidewalk enhancement and pedestrian safety.

(3) A project improving connectivity or utilization of existing transportation assets.

(4) A project related to transit-oriented development, as defined in section 103 of the act of December 8, 2004 (P.L.1801, No.238), known as the Transit Revitalization Investment District Act.

"Fund." The Multimodal Transportation Fund established in section 2102 (relating to Multimodal Transportation Fund).

§ 2102. Multimodal Transportation Fund.

A special fund is established within the State Treasury to be known as the Multimodal Transportation Fund. Moneys in the fund are hereby appropriated to the Department of Transportation on a nonlapsing basis.

Cross References. Section 2102 is referred to in section 2101 of this title; section 9502 of Title 75 (Vehicles).

§ 2103. Transfers and deposits to fund.

In addition to appropriations, deposits or transfers to the fund, interest earned on money in the fund shall be deposited in the fund.

§ 2104. Use of money in fund.

(a) Purposes.--Money in the fund shall be used as follows:

(1) To annually provide the following grants for programs administered by the Department of Transportation:

(i) For programs related to aviation:

(A) $5,000,000 in fiscal year 2013-2014.

(B) $6,000,000 in fiscal year 2014-2015 and each fiscal year thereafter.

(ii) For programs related to rail freight:

(A) $8,000,000 in fiscal year 2013-2014.

(B) $10,000,000 in fiscal year 2014-2015 and each fiscal year thereafter.

(iii) For programs related to passenger rail:

(A) $6,000,000 in fiscal year 2013-2014.

(B) $8,000,000 in fiscal year 2014-2015 and each fiscal year thereafter.

(iv) For programs related to ports and waterways:

(A) $8,000,000 in fiscal year 2013-2014.

(B) $10,000,000 in fiscal year 2014-2015 and each fiscal year thereafter.

(v) $2,000,000 for programs related to bicycle and pedestrian facilities.

(2) To annually pay costs incurred by the department for activities directly initiated or undertaken by the department related to eligible programs in accordance with all of the following:

(i) Activities shall be initiated or undertaken in consultation with the chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives.

(ii) Costs may be incurred as follows:

(A) $0 for fiscal year 2013-2014.

(B) Not to exceed $20,000,000 for fiscal year 2014-2015.

(C) Not to exceed $40,000,000 annually in fiscal year 2015-2016 and each fiscal year thereafter, $35,000,000 of which shall be from revenues deposited into the fund under 75 Pa.C.S. § 9502(a) (relating to imposition of tax).

(3) To annually pay costs incurred by the department in the administration of the programs specified in paragraph (1) as appropriated by the General Assembly.

(4) Annually, any money not allocated under paragraphs (1), (2) and (3) or as provided in subsection (b) shall be transferred to the Commonwealth Financing Authority and used to fund eligible programs. The authority shall develop guidelines for use of the money for eligible programs, which shall include the requirements of section 2106 (relating to local match).

(b) Automatic adjustments.--

(1) For the initial adjustment, the department shall do all of the following:

(i) Determine the percentage increase in the Consumer Price Index for All Urban Consumers for the period beginning August 1, 2013, and ending January 31, 2015.

(ii) Apply, as of July 1, 2015, the increase under subparagraph (i) to every grant amount under subsection (a)(1).

(2) For subsequent adjustments, the department shall do all of the following:

(i) Determine the percentage increase in the Consumer Price Index for All Urban Consumers for the period beginning February 1, 2015, and ending January 31, 2017, and for each succeeding 24-month period.

(ii) Apply, as of July 1, 2017, the increase under subparagraph (i) to the then current grant amount under subsection (a)(1).

Special Provisions in Appendix. See section 47 of Act 89 of 2013 in the appendix to this title for special provisions relating to costs incurred by department.

Cross References. Section 2104 is referred to in sections 2105, 2106 of this title.

§ 2105. Project selection criteria.

The Department of Transportation shall award grants under section 2104(a)(1) (relating to use of money in fund) on a competitive basis. The department may not reserve, designate or set aside a specific level of funding or percentage of funds to an applicant prior to the completion of the application process, nor may the department designate a set percentage of funds to an applicant.

§ 2106. Local match.

Unless otherwise specified by law, financial assistance under section 2104(a)(2) and (4) (relating to use of money in fund) shall be matched by local funding in an amount not less than 30% of the non-Federal share of the project costs. Matching funds from a county or municipality shall only consist of cash contributions provided by one or more counties or municipalities.

Cross References. Section 2106 is referred to in section 2104 of this title.

§ 2107. Balanced Multimodal Transportation Policy Commission (Repealed).

2021 Repeal. Section 2107 was repealed June 30, 2021, P.L.253, No.54, effective in 60 days.

PART III

Chapter

51. Preliminary Provisions
53. Authority of Department of Transportation
55. Legal Status of Air Navigation
57. Obstructions to Aircraft Operation
59. Airport Operation and Zoning
61. Aviation Development
63. Aviation Advisory Committee
65. Flying While Impaired

Enactment. Part III was added October 10, 1984, P.L.837, No.164, effective immediately.

CHAPTER 51
PRELIMINARY PROVISIONS

Sec.

5101. Short title of part.
5102. Definitions.
5103. Aviation Restricted Account.

Enactment. Chapter 51 was added October 10, 1984, P.L.837, No.164, effective immediately.

§ 5101. Short title of part.

This part shall be known and may be cited as the Aviation Code.

§ 5102. Definitions.

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

"Aircraft." Any contrivance, except an unpowered hang-glider or parachute, used for manned ascent into or flight through the air.

"Airport." Any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon. Unless indicated otherwise, airport shall include heliports and public airports.

"Airport hazard." Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight of aircraft in landing or taking off at an airport or is otherwise hazardous to the landing or taking off of aircraft.

"Airport hazard area." Any area of land or water upon which an airport hazard might be established if not prevented as provided in this part.

"Aviation development." Any work involved in the construction, reconstruction, improvement or repair of a landing area, heliport, airport or any portion thereof. For purposes of this part, aviation development shall include, but shall not be limited to, the removal, lowering and relocation of airport equipment and facilities, including the marking and lighting of any airport; the construction and maintenance of maintenance hangars and T-storage hangars; the installation or improvement of navigation aids used in the landing and taking off of aircraft; the installation of equipment used for the suppression of noise, including the construction of physical barriers and

landscaping for the purpose of diminishing the effect of aircraft noise in any area adjacent to an airport; the acquisition of land, or any interest therein, or any easement, for purposes which are compatible with the operation of the airport, including the removal of airport hazards; and any other aviation-related improvements so long as they are directly involved in the movement, servicing or housing of aircraft on an airport.

"Aviation-related area." Any area of an airport used, or intended to be used, in the direct operation of the airport. The term includes, but is not limited to, any portion of the airport used in the landing, taking off or surface maneuvering of an aircraft. The term does not include hangars, terminals and any portion of the airport used for the housing of aircraft or areas dedicated to hotels, motels, shops, restaurants, parking areas and garages and other for-profit establishments whose purpose is unrelated to the landing and taking off of aircraft.

"Board." A zoning hearing board or joint zoning hearing board established pursuant to Article IX of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code, but not including a joint airport zoning board established pursuant to section 5912 (relating to power to adopt airport zoning regulations). In municipalities where the Pennsylvania Municipalities Planning Code does not apply, the term shall mean the body having the powers listed in section 5917 (relating to administrative appeals).

"Commercial flight operations." The carrying of persons or goods for hire, including the conduct of flight instruction for compensation.

"Commercial operator." A person who deals in the sale or resale of aircraft or aircraft parts or aircraft maintenance.

"Department." The Department of Transportation.

"Helicopter." A rotorcraft, other than a model or radio-controlled rotorcraft, that, for its horizontal motion, depends principally on its engine-driven rotor.

"Heliport." Any area of land, water or structure which is used or intended to be used for the landing and takeoff of helicopters and any appurtenant areas which are used for heliport buildings or helicopter facilities or rights-of-way, together with all heliport buildings and facilities thereon.

"Landing area." Any area used, or intended to be used, for the landing, taking off or surface maneuvering of aircraft.

"Planning agency." A planning commission, planning department, planning committee of the governing body of a municipality or planning committee of a joint airport zoning board.

"Private airport." An airport which is privately owned and which is not open or intended to be open to the public.

"Public airport." An airport which is either publicly or privately owned and which is open to the public.

"Secretary." The Secretary of Transportation.

"Statewide regional apportionment formula." The method utilized by the department to determine whether or not an airport qualifies for State revenue to be utilized for capital construction projects and land acquisitions.

"Structure." Includes buildings, towers, smokestacks and overhead transmission lines.

§ 5103. Aviation Restricted Account.

(a) Creation of account.--There is hereby created a special account in the State Treasury which shall be known as the Aviation Restricted Account.

(b) Source.--(Repealed).

(c) Use of account.--(Repealed).

(July 11, 1996, P.L.619, No.105, eff. imd.)

1996 Repeal. Act 105 repealed subsecs. (b) and (c).

Cross References. Section 5103 is referred to in section 6122 of this title.

CHAPTER 53
AUTHORITY OF DEPARTMENT OF TRANSPORTATION

Sec.

5301. Authority of department.
5302. Aircraft for official use.

Enactment. Chapter 53 was added October 10, 1984, P.L.837, No.164, effective immediately.

§ 5301. Authority of department.

(a) General powers.--The department shall administer the provisions of this part and, for that purpose, shall promulgate and enforce regulations as necessary to execute the powers vested in it by this part and other laws relating to aviation, airports and air safety within this Commonwealth. The secretary shall have the powers and perform the functions provided by this part. Where any provision of this part confers powers or imposes duties upon the department which under any Federal statute may be exercised by or imposed on only the Secretary of Transportation, the reference to the department shall be construed to mean the department acting by and through the Secretary of Transportation or the person for the time being acting as the Secretary of Transportation personally.

(b) Specific powers.--The department is authorized to:

(1) Provide for the examination, rating and licensing of airports.

(2) Operate and maintain airports which are owned or leased by the Commonwealth and encourage and assist in the establishment and construction of other airports.

(3) Expend moneys appropriated to it for the purposes of the administration of this part, including proceeds from aviation fuel excise taxes and fines arising from violations of Chapter 57 (relating to obstructions to aircraft operation) from time to time in the Aviation Restricted Account.

(4) Accept and expend money, property or other things of value received from the Federal Government or from any other source for the making of surveys and plans and the purchase of lands for and the construction of airports.

(5) (Repealed).

(6) Encourage and assist in the establishment and construction of airports.

(7) Provide for the licensing of commercial operators. If the department should fail to exercise this power, or if it should discontinue its use, it shall publish notice thereof in the Pennsylvania Bulletin at least 60 days prior to its discontinuance.

(8) Provide for education and training in crash fire rescue operations.

(9) Provide for placement of appropriate runway markings, hazard markings and highway directional signing.

(10) Oversee flight operations of all aircraft purchased or leased and maintained by the department under section 5302(a) (relating to aircraft for official use) for use by Commonwealth agencies and the General Assembly.

(c) Additional power.--In addition to the aforementioned specific powers, the department may arrange for the publication of aeronautical charts, aircraft directories and other aviation information.

(d) Conformity to Federal law.--All rules and regulations promulgated by the department under the authority of this part shall be consistent with and conform to the Federal statutes and regulations governing aeronautics.

(e) Limitation on powers.--

(1) No license for a new airport, which is proposed to be located within a five-mile radius of an existing airport, or for the conversion of a military airport to joint use shall be issued by the department unless it has held a public hearing on the license application. The hearing shall be held in the area where the proposed airport is to be located and at least 60 days' notice of the date, time and place of the hearing shall be given to the public in at least one newspaper of general circulation. No license shall be issued unless the department is satisfied that fair consideration has been given to the interest of the communities in or near which the proposed airport is to be located and in no event shall the department license any airport within two miles of the boundary of an existing airport. Any person aggrieved by a decision of the department to grant or deny a license for a new airport or for a conversion of a military airport to joint use may take an appeal as provided in Title 2 (relating to administrative law and procedure). Nothing in this subsection shall be construed as applying to the licensing of heliports, existing airports, upgrading of existing airports or airports under construction unless for conversion of military airports to joint use.

(2) Any license for an airport issued by the department shall be effective for a period not less than two years from the date of its issuance. The department may revoke an airport license upon proof of any violation of law or regulation relating to aviation.

(3) The department shall not utilize the Statewide regional apportionment formula for any project when it has not received approval of the Federal Aviation Administration and at least 5% of the project's funding from the Aviation Restricted Account.

(Apr. 12, 2012, P.L.228, No.26, eff. 60 days; July 2, 2019, P.L.384, No.60, eff. 60 days)

2019 Repeal. Act 60 repealed subsec. (b)(5).

2012 Amendment. Act 26 amended subsec. (b).

§ 5302. Aircraft for official use.

(a) General rule.--The department may purchase or lease and maintain aircraft required for the proper conduct of the business of the Commonwealth agencies and the General Assembly. The total cost, including all ordinary and necessary expenses for the use of such aircraft, shall be charged by the department to the using agency or the General Assembly. The amount of such charge shall be paid into the Aviation Restricted Account and be credited to the amounts appropriated therefrom for the use of the department. All amounts so credited are hereby

appropriated to the department for the same purposes as other appropriations out of the Aviation Restricted Account for the use of the department.

(b) Flight log required.--The department shall establish and maintain a log of flights using aircraft authorized under this section. This log shall be publicly accessible on the department's Internet website and shall be updated monthly. At minimum, the information made available on the department's Internet website shall include:

(1) Flight date.
(2) Flight identification number.
(3) Agency name.
(4) Aircraft.
(5) Originating city.
(6) Departure time.
(7) Destination city. If a flight includes more than one destination city, all destination cities shall be identified for such flight.
(8) Arrival time at and departure time from the destination city.
(9) All passengers, with the exception of Pennsylvania State Police security personnel, including first and last names, job titles, State agency, organization, business or other entity to which the passenger is affiliated or represents.
(10) Public purpose of the trip.
(11) Total hours.
(12) Invoice amount.

(c) Manner of posting.--All flight information required by subsection (b) shall be in plain and easily understandable language and posted in a way that allows the public to search the information by the categories enumerated in subsection (b)(1) through (12).

(Apr. 12, 2012, P.L.228, No.26, eff. 60 days)

Cross References. Section 5302 is referred to in section 5301 of this title.

CHAPTER 55
LEGAL STATUS OF AIR NAVIGATION

Sec.

5501. Ownership of space.
5502. Damage to persons and property on ground.
5503. Law applicable to crimes and torts.
5504. Law applicable to contracts.

Enactment. Chapter 55 was added October 10, 1984, P.L.837, No.164, effective immediately.

§ 5501. Ownership of space.

(a) General rule.--The ownership of the space over and above the lands and waters of this Commonwealth is declared to be vested in the owner of the surface beneath, but the ownership extends only so far as is necessary to the enjoyment of the use of the surface without interference and is subject to the right of passage or flight of aircraft. Flight through the space over and above land or water, at a sufficient height and without interference to the enjoyment and use of the land or water beneath, is not an actionable wrong unless the flight results in actual damage to the land or water, or property thereon or therein, or use of the land or water beneath.

(b) Penalty.--Except in an emergency, no aircraft may land on, taxi or maneuver upon, or take off from a public airport unless operated by a person possessing proof of having attained a national standard of competence in the operation of that aircraft. Any person violating any of the provisions of this part, unless the violation is by this title or other statute of this Commonwealth declared to be a misdemeanor, or any of the rules and regulations adopted by the department pursuant to this part, commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not less than $50 and not more than $200 and, in default thereof, to undergo imprisonment for a period not exceeding 30 days.

§ 5502. Damage to persons and property on ground.

(a) General rule.--The owner and the pilot, or either of them, of an aircraft which is operated over the lands or waters of this Commonwealth shall be liable for injuries or damage to persons or property on or over the land or water beneath, caused by the ascent, descent or flight of aircraft or the dropping or falling of any object therefrom in accordance with the law applicable to torts on land in this Commonwealth.

(b) Definition.--As used in this section the word "owner" includes a person having full title to aircraft and operating it through agents and also includes a bona fide lessee or bailee of the aircraft whether gratuitously or for hire. It does not include a bona fide bailor or lessor of the aircraft, whether gratuitously or for hire, or a mortgagee, secured party, trustee for creditors of the aircraft or other persons having a security title only. The owner of the aircraft shall not be liable when the pilot of the aircraft is in possession thereof as a result of theft or felonious conversion. The person in whose name an aircraft is registered with the United States Department of Transportation is prima facie the owner of the aircraft within the meaning of this section.

§ 5503. Law applicable to crimes and torts.

(a) General rule.--All crimes, torts and other wrongs committed by or against a pilot or passengers, while in flight over or above the lands and waters of this Commonwealth, shall be governed by the law of this Commonwealth. The issue of whether damage occasioned by or to an aircraft, while over this Commonwealth, constitutes a tort, crime or other wrong by or against the owner of the aircraft shall be determined by the law of this Commonwealth.

(b) Liability for injury to passengers.--The liability of the owner or pilot of an aircraft carrying passengers, for injury or death to the passengers, shall be determined by the law applicable to torts on the lands or waters of this Commonwealth arising out of similar relationships.

(c) Liability for collision of aircraft.--The liability of the owner of one aircraft to the owner of another aircraft, or to pilots or passengers on either aircraft, for damage caused by collision, on land or in the air, shall be determined by the law applicable to torts on the lands or waters of this Commonwealth.

(d) Liability of insurer.--No insurer shall deny coverage under an exclusion in an agreement where there is no causal connection between the exclusion and any loss resulting from any accident.

(e) Rental insurance disclosure.--

(1) Every person who, in the ordinary course of his business, rents an aircraft to another person, shall deliver to such renter a written notice stating the nature and extent of insurance coverage provided, if any, for the renter

against loss of or damage to the hull of the aircraft, or against liability arising out of the ownership, maintenance or use of the aircraft. The notice shall contain the name of the person giving the notice and shall be in such form as required by the department.

(2) Every person subject to the requirements of paragraph (1) shall, in addition thereto, conspicuously post in every place he conducts business, a statement setting forth the nature and extent of insurance coverage.

(3) Any person who fails to deliver the notice in accordance with paragraph (1) commits a summary offense and shall, upon conviction, be sentenced to pay a fine of not more than $1,000.

§ 5504. Law applicable to contracts.

All contractual and other relations entered into by pilots or passengers, while in flight over or above the lands or waters of this Commonwealth, shall be governed by the laws applicable to similar relations entered into on the lands of this Commonwealth.

CHAPTER 57
OBSTRUCTIONS TO AIRCRAFT OPERATION

Sec.

5701. Department approval.
5702. Commencement of proceedings for summary offenses.
5703. Disposition of fines, fees and forfeitures.

Enactment. Chapter 57 was added October 10, 1984, P.L.837, No.164, effective immediately.

Cross References. Chapter 57 is referred to in section 5301 of this title.

§ 5701. Department approval.

(a) Obstructions to aircraft within approach area.--A person who erects and maintains any smokestack, flag pole, elevated tank, radio station tower, antenna, building, structure, any object of natural growth or other obstruction to the operation of aircraft within an approach area that extends above an inclined plane without first obtaining prior approval thereof from the department commits a summary offense. Each day a violation of this subsection continues constitutes a separate offense.

(b) Structures in close proximity to airport.--A person who erects a new structure or adds to an existing structure in violation of guidelines or regulations adopted by the Federal Aviation Administration of the United States Department of Transportation, or who erects the structure with respect to the airport without, in either event, first obtaining prior approval from the department, commits a summary offense.

(c) Definition.--As used in this section the term "approach area" includes all that area lying within and above an inclined plane, starting at each end of each runway or landing strip of a public-use airport, as described by guidelines or regulations adopted by the Federal Aviation Administration of the United States Department of Transportation.

§ 5702. Commencement of proceedings for summary offenses.

In cases where the alleged violation of this chapter is designated a summary offense, proceedings shall be instituted under applicable law within 30 days after the commission of the alleged violation. If the proceedings are instituted against a person prima facie guilty of an offense and it subsequently

appears that another person was the violator, proceedings may be instituted against the other person within 30 days after his identity has been discovered.

§ 5703. Disposition of fines, fees and forfeitures.

All fines, fees and forfeitures collected under this part for violations thereof, and all bail forfeited, shall be paid to the Department of Revenue and transmitted to the State Treasury and credited to the Aviation Restricted account by the magisterial district judge or other officer imposing or receiving them. A magisterial district judge who fails to pay the fines, fees and forfeitures to the Department of Revenue commits a misdemeanor of the third degree.
(Nov. 30, 2004, P.L.1618, No.207, eff. 60 days)

2004 Amendment. See section 29 of Act 207 in the appendix to this title for special provisions relating to construction of law.

CHAPTER 59
AIRPORT OPERATION AND ZONING

Subchapter
A. General Provisions
B. Airport Zoning
C. First Class City Consolidated Car Rental Facility

Enactment. Chapter 59 was added October 10, 1984, P.L.837, No.164, effective immediately.

SUBCHAPTER A
GENERAL PROVISIONS

Sec.
5901. Harrisburg International Airport.
5902. Other airports.
5903. Authority of department.
5904. Airport authorities.
5905. Certain State-owned airport.

§ 5901. Harrisburg International Airport.

All right, title and interest in certain property located in Lower Swatara Township and the Borough of Middletown, Dauphin County, formerly known as Olmsted Air Force Base, presently known as Harrisburg International Airport and more fully described in the act of April 25, 1929 (P.L.755, No.319), entitled "An act to cede jurisdiction to the United States over the tracts of lands and buildings occupied by the Army Air Depot and Flying Field located in and adjacent to the Borough of Middletown, Dauphin County," which has been acquired by the Commonwealth from the Federal Government shall vest in the Commonwealth and shall be under the administration and control of the department for the uses and purposes set forth in this section.

References in Text. The act of April 25, 1929 (P.L.755, No.319), referred to in this section, was repealed by the act of October 10, 1984 (P.L.837, No.164). The subject matter is now contained in Chapter 59 (relating to airport operation and zoning).

§ 5902. Other airports.

All right, title and interest in certain properties known as Capital City Airport, located in York County, and Grand

Canyon, located in Tioga County, shall be under the administration and control of the department for the uses and purposes set forth in this part.

§ 5903. Authority of department.

(a) Powers enumerated.--The department is authorized to:

(1) Allocate so much of the property for use as airports as it determines to be necessary.

(2) Operate and maintain the airports.

(3) Grant leases, licenses, easements and rights-of-way over, under and upon the property, for any period under such terms and conditions and for such rent or other consideration as the department deems proper. With respect to leases or agreements relating to airports, the appropriate department, in negotiations with any person regarding such leases or agreements, shall insure that retention and creation of employment shall be the ultimate result of these negotiations. Further, such lease or agreement shall include provisions that require the lessee to adequately maintain access roads, runways and buildings and keep the airport operational. If the lessee fails to abide by the terms of the lease or agreement with regard to the above, the appropriate department, after giving reasonable notice, shall terminate the lease or agreement.

(4) Sell and convey or exchange with the approval of the Governor and the General Assembly any of the property under such terms and conditions and for such consideration as the department deems proper.

(5) Equip, alter, repair, maintain, renew, relocate or demolish all or any portion of the property including any building, structure or fixture.

(6) Mark, build, rebuild, relocate, fix the width of, construct, repair and maintain roads over the property.

(7) Purchase, contract for and maintain all equipment, machinery, materials, services and supplies necessary to construct, operate or maintain the airport or the property.

(8) Maintain and operate utility services such as water, sewage, heat, electric power or other services and provide them to any tenant or other person occupying or using any of the property or facilities covered by this section, under such terms and conditions and for such rent or other consideration as the department deems proper; the department shall incur no monetary loss in the execution of these functions.

(9) Provide fire protection for the property and facilities if required by Federal law or regulation.

(10) Provide police protection in accordance with the act of May 21, 1943 (P.L.469, No.210), entitled "An act providing for commissioning as police officers certain employes of institutions maintained in whole or in part by the Commonwealth; conferring upon them the powers of constables in certain cases; and imposing duties on wardens and keepers of jails, police stations and lock-ups", and perform arrests and collect and retain all fines arising from infractions of the law including, but not limited to, vehicle parking violations.

(11) Employ such officers, technicians, professional assistants and other persons as the department deems necessary to carry out this section.

(12) Acquire additional lands with legislative approval.

(13) Collect rents, fees and other moneys derived from any source pursuant to any provision of this section.

(14) Acquire easements, leases, licenses, permits or other rights or interests necessary for the proper accomplishment of the purposes of this section.

(b) Procedures.--The powers and duties granted by this act shall be exercised in accordance with the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, where not inconsistent with this chapter.

§ 5904. Airport authorities.

Any airport authority, except an authority located within a county of the first or second class, is hereby empowered to employ such persons as are necessary to provide for the safety and well-being of persons and property at the airport. The persons who are so employed shall have the power to act in accordance with the provisions of Title 75 (relating to vehicles). The persons who are so employed shall also be subject to the provisions of the act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law. All fines forfeited, recognizances and other fines imposed, lost or forfeited, shall be payable to the airport authority.

References in Text. The act of June 18, 1974 (P.L.359, No.120), referred to as the Municipal Police Education and Training Law, referred to in this section, was repealed by the act of December 12, 1996 (P.L.1158, No.177). The subject matter is now contained in Subchapter D of Chapter 21 of Title 53 (relating to municipal police education and training).

§ 5905. Certain State-owned airport.

Notwithstanding any other provision of law to the contrary, all right, title and interest in the property known as Mid-State Airport located in Centre County, containing 496.68 acres, more or less, including the present access road from L.R.504 to and into Mid-State Airport, shall be transferred to and held within the jurisdiction and control of the Department of General Services for all purposes, and the Department of General Services shall have the same powers and duties with respect to Mid-State Airport as it has with respect to other real estate under its jurisdiction, with the exception that the facilities currently owned, used and operated at Mid-State Airport by the Department of Environmental Resources for wild fire attack operations and full access thereto by land and by air shall remain, without charge of any kind, in the Department of Environmental Resources, it being intended that nothing herein shall diminish the ability of the Department of Environmental Resources to continue its wild fire air attack operations as conducted at and out of Mid-State Airport prior to the effective date hereof. Because this involves a transfer of State forest and State park lands, no future use of Mid-State Airport shall impair in any way the integrity of the adjacent State forest and State park lands and their ecosystems. If at any time the jurisdiction and control of the land herein transferred entails significant maintenance and operation responsibilities for the Department of General Services, then and thereafter the jurisdiction and control of the land shall be transferred to the Department of Transportation.

Transfer of Powers. Section 302(h) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall exercise the powers and duties conferred upon the Department of Environmental Resources by section 5905.

SUBCHAPTER B
AIRPORT ZONING

Sec.
5911. Short title of subchapter.
5912. Power to adopt airport zoning regulations.
5913. Relation to other zoning regulations.
5914. Procedure for adoption of zoning regulations.
5915. Airport zoning requirements.
5916. Permits and variances.
5917. Administrative appeals.
5918. Judicial review.
5919. Notice to department.
5920. Acquisition of air rights.

Cross References. Subchapter B is referred to in section 14702 of Title 11 (Cities).

§ 5911. Short title of subchapter.

This subchapter shall be known and may be cited as the Airport Zoning Act.

§ 5912. Power to adopt airport zoning regulations.

(a) General rule.--In order to prevent the creation or establishment of airport hazards, every municipality having an airport hazard area within its territorial limits shall adopt, administer and enforce, under the police power and in the manner and upon the conditions prescribed in this subchapter and in applicable zoning law unless clearly inconsistent with this subchapter, airport zoning regulations for such airport hazard area. The regulations may divide the area into zones and, within the zones, specify the land uses permitted and regulate and restrict the height to which structures may be erected or objects of natural growth may be allowed to grow. A municipality which includes an airport hazard area created by the location of a public airport is required to adopt, administer and enforce zoning ordinances pursuant to this subchapter if the existing comprehensive zoning ordinance for the municipality does not provide for the land uses permitted and regulate and restrict the height to which structures may be erected or objects of natural growth may be allowed to grow in an airport hazard area.

(b) Joint airport zoning board.--Where any airport hazard area appertaining to an airport is located outside the territorial limits of the municipality encompassing the airport, all of the municipalities involved may, by ordinance or resolution, create a joint airport zoning board which shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subsection (a) in the municipality within which the area is located. Each joint airport zoning board shall have as members two representatives appointed by each municipality participating in its creation and, in addition, a chairman elected by a majority of the members so appointed.

(c) Definition.--As used in this section the word "airport" does not include facilities designated as heliports and which can be used only by rotary wing aircraft, nor airports which are private airports.

Cross References. Section 5912 is referred to in section 5102 of this title.

§ 5913. Relation to other zoning regulations.

(a) Incorporation.--In the event that a municipality has adopted or hereafter adopts a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of the comprehensive zoning regulations and be administered and enforced in connection therewith.

(b) Conflict.--In the event of conflict between any airport zoning regulations adopted under this subchapter and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, and whether the other regulations were adopted by the municipality which adopted the airport zoning regulations or by some other municipality under this subchapter or otherwise, the more stringent limitation or requirement shall prevail.

§ 5914. Procedure for adoption of zoning regulations.

(a) Notice and hearing.--No airport zoning regulations shall be adopted, amended or changed except by action of the municipality or the joint airport zoning board after a public hearing in relation thereto at which parties in interest and citizens shall have an opportunity to be heard. The notice shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality or municipalities affected. The notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days or less than 14 days from the date of the hearing.

(b) Airport Zoning Planning Agency.--Prior to the initial zoning of any airport hazard area, the municipality or joint airport zoning board which is to adopt the regulations shall appoint a planning agency, to be known as the Airport Zoning Planning Agency, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. The planning agency shall make a preliminary report and, after notice given in the same manner as is provided in subsection (a), shall hold public hearings thereon before submitting its final report. The municipality or the joint airport zoning board shall not hold its public hearings or take other action until it has received the final report of the planning agency. Where a planning agency already exists, it may be appointed as the Airport Zoning Planning Agency.

§ 5915. Airport zoning requirements.

(a) Reasonableness.--All airport zoning regulations adopted under this subchapter shall be reasonable; none shall impose any requirement or restriction unless it is reasonably necessary to effectuate the purpose of this subchapter. In determining what regulations it may adopt, each municipality and joint airport zoning board shall consider, among other factors, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood and the uses to which the property to be zoned is put and adaptable.

(b) Nonconforming uses.--No airport zoning regulations adopted under this subchapter may require the removal, lowering or other change or alteration of any structure or any object of natural growth not conforming to the regulations when adopted or amended or otherwise interfere with the continuance of any nonconforming use, except as provided in section 5916 (relating to permits and variances).

(c) Model ordinance.--A municipality shall adopt, either in full or by reference, any provision of any model zoning ordinance or other similar guidelines suggested or published by the Federal Aviation Administration of the United States Department of Transportation regarding airport hazard areas.

§ 5916. Permits and variances.

(a) Permit.--Any airport zoning regulations shall require that a permit be obtained before any new use or structure may be established or constructed and before any existing use or structure may be substantially changed, but no permit may be required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure. However, all regulations shall provide that before any nonconforming structure may be replaced, substantially altered or rebuilt or tree allowed to grow higher or replanted, a permit must be secured from the municipality authorizing the replacement or change. Applications for permits shall only be granted unless to do so would allow the establishment or creation of an airport hazard or permit a nonconforming structure or object of natural growth or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted, or than it is when the application for a permit is made.

(b) Variance.--Any person desiring to erect any structure or increase the height of any structure or permit the growth of any object of natural growth or otherwise use his property in violation of airport zoning regulations may apply to the board for a variance from the zoning regulations in question. A variance shall only be granted after the requirements of section 5919 (relating to notice to department) are satisfied. A variance may be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but would do substantial justice and would be in accordance with the spirit of the regulations and this subchapter. Any variance may be granted subject to any reasonable conditions that the board may deem necessary to effectuate the purposes of this subchapter.

(c) Hazard marking and lighting.--In granting any permit or variance under this section, the board shall, if it deems the action advisable to effectuate the purpose of this subchapter and reasonable in the circumstances, so condition the permit or variance as to require the owner of the structure or object of natural growth in question to permit the municipality, at its own expense, or require the person or persons requesting the permit or variance, to install, operate and maintain thereon such markers and lights as may be required by guidelines or regulations adopted by the Federal Aviation Administration of the United States Department of Transportation.

Cross References. Section 5916 is referred to in section 5915 of this title.

§ 5917. Administrative appeals.

(a) Right of appeal.--Any person aggrieved or taxpayer affected by any decision of the municipality or joint zoning hearing board may appeal to the board as provided by law.

(b) Stay of proceedings.--An appeal shall stay all proceedings in furtherance of the action appealed from unless the municipality or joint zoning hearing board certifies to the board, after the notice of appeal has been filed with it, that,

by reason of the facts stated in the certificate, a stay would in its opinion cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the board or notice to the municipality or joint zoning appeal board.

(c) Board of appeals.--All airport zoning regulations shall provide for a board to hear and decide appeals, special exceptions and requests for variances. Where a zoning board of appeals or adjustment already exists, it may be appointed as the board. Otherwise, the board shall consist of five members, each to be appointed for a term of three years by the authority adopting the regulations and to be removable by the appointing authority, for cause, upon written charges and after public hearing.

Cross References. Section 5917 is referred to in section 5102 of this title.

§ 5918. Judicial review.

Any person aggrieved or taxpayer affected by any decision of a board may appeal to the court of common pleas as provided by law. In cases where applicable law does not provide an appeal from a municipality to a board, a person or taxpayer may appeal from a decision of a municipality or joint airport zoning board, as provided by law for similar zoning proceedings.

Cross References. Section 5918 is referred to in section 5919 of this title.

§ 5919. Notice to department.

Notwithstanding any other provision of law, a municipality or board which decides to grant a permit or variance under this subchapter shall notify the department of its decision. This notice shall be in writing and shall be sent so as to reach the department at least ten days before the date upon which the decision is to issue. Nothing in this section shall be construed as impairing the rights of any person under section 5918 (relating to judicial review).

Cross References. Section 5919 is referred to in section 5916 of this title.

§ 5920. Acquisition of air rights.

In any case in which it is desired to remove, lower or otherwise terminate a nonconforming structure or use, or the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations, or it appears advisable that the necessary approach protection be provided by acquisition of property rights, rather than by airport zoning regulations, the municipality within which the property or nonconforming use is located, or the municipality or municipal authority owning the airport or served by it, may acquire by purchase, grant or condemnation, in the manner provided by the law under which municipalities are authorized to acquire real property for public purposes, such air right, aviation easement or other estate or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purpose of this subchapter. In the case of the purchase of any property or any easement or estate, or interest therein, or the acquisition thereof by the power of eminent domain, the municipality making the purchase or exercising the power shall, in addition to the damages for the taking, injury or destruction of property, also pay the cost of the removal and relocation of any structure or any public utility which is required to be moved to a new location.

Cross References. Section 5920 is referred to in section 206 of Title 26 (Eminent Domain).

SUBCHAPTER C
FIRST CLASS CITY CONSOLIDATED CAR RENTAL FACILITY

Sec.
5931. Scope of subchapter.
5932. Definitions.
5933. Customer facility charge.

Enactment. Subchapter C was added November 25, 2013, P.L.974, No.89, effective immediately.

Special Provisions in Appendix. See the preamble to Act 89 of 2013 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 5931. Scope of subchapter.

This subchapter relates to consolidated car rental facilities in cities of the first class.

§ 5932. Definitions.

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

"Airport." A public international airport located partially in a city of the first class and partially in an adjacent municipality.

"Airport owner." Any of the following:

(1) A city which owns and operates an airport.

(2) An authority created by a city to own and operate an airport or any portion or activities of the airport.

"Airport property." Property owned and operated by an airport owner, including property that is leased, licensed or available for use by the airport owner.

"City." A city of the first class.

"Concession agreement." A regulation, contract, permit, license or other agreement entered into between an airport owner and a vehicle rental company which includes the terms and conditions under which the company may conduct any aspect of its rental vehicle business at the airport or through the use of airport property, including a vehicle rental company which provides a customer access to a vehicle or executes a rental contract on or off airport property.

"Customer facility charge." A fee assessed on each motor vehicle rental under this subchapter for the purposes described in section 5933(g) (relating to customer facility charge).

"Motor vehicle." A private passenger motor vehicle that meets all of the following:

(1) Is designed to transport not more than 15 passengers.

(2) Is rented for 29 or fewer continuous days without a driver.

(3) Is part of a fleet of at least five passenger vehicles used for the purpose under paragraph (2).

"Rental facility." A consolidated facility for the use of a vehicle rental company to conduct business on airport property.

"Rental facility agreement." A written agreement entered into between an airport owner and vehicle rental companies which includes the following:

(1) Location, scope of operations and general design of the rental facility, a rental facility improvement and a transportation system which connects to a terminal or related structure.

(2) The manner in which the proceeds of the customer facility charge are to be used as provided in section 5933(g) (relating to customer facility charge).

(3) A procedure and requirement for a consultation with vehicle rental companies regarding the implementation of this subchapter and for the disclosure to vehicle rental companies of information relating to the collection and use of the customer facility charge.

(4) A methodology and procedure by which the amount of the customer facility charge will be calculated and adjusted.

(5) Any other provision agreed to by the airport owner and the vehicle rental companies.

"Rental facility improvement." A facility or structure on airport property needed for development or use of the rental facility. The term includes costs necessary for planning, financing, designing, constructing, equipping or furnishing the rental facility improvements.

"Rental facility operations and maintenance expenses." The cost of operating and maintaining a rental facility.

"Transportation system." A system which transports an arriving or departing vehicle rental customer between a terminal and related structure and the rental facility.

"Transportation system costs." The portion of total costs incurred to design, finance, construct, operate and maintain a transportation system which reflects the usage or benefit of the system to vehicle rental companies and their customers.

"Vehicle rental company." A person engaged in the business of renting a motor vehicle in this Commonwealth that provides a motor vehicle rental to a customer and utilizes airport property in any aspect of its business, notwithstanding if other aspects of its business are not conducted on airport property, including to do any of the following on an airport property:

(1) Contact customers or pick up or drop off customers.

(2) Advertise the availability of a vehicle rental service.

§ 5933. Customer facility charge.

(a) Imposition.--

(1) Except as set forth in paragraph (2), a city may impose a customer facility charge of not more than $8 per rental day on a customer renting a motor vehicle from a vehicle rental company doing business at an airport.

(2) Notwithstanding paragraph (1), a rental facility agreement may provide for a customer facility charge in excess of $8 per rental day.

(3) A customer facility charge may be imposed notwithstanding the absence of authority in a regulation or concession agreement.

(4) A customer facility charge may not affect the validity or enforceability of a concession agreement.

(b) Amendment.--The following shall apply:

(1) The customer facility charge may be increased beyond $8 per rental day by written amendment to an existing rental facility agreement signed by the parties to the rental facility agreement or the parties' successors or assigns. An increase to the customer facility charge under this paragraph may only occur one time each year.

(2) A city may decrease the amount of the customer facility charge at any time without the requirement of an

amendment to an existing rental facility agreement. Following a decrease in the amount of the customer facility charge by the city, the city may increase the amount of the customer facility charge without the requirement of an amendment to an existing rental facility agreement if the amount of the customer facility charge does not exceed the amount that was in effect prior to the decrease. An increase beyond that amount shall require a written amendment to the existing rental facility agreement signed by the parties to the rental facility agreement or the parties' successors or assigns.

(c) Rental facility agreement.--

(1) A rental facility agreement shall take effect and be enforceable if, at the time it is executed, it is signed by the airport owner and at least 80% of the vehicle rental companies which utilized airport property and which together provided at least 90% of the motor vehicle rentals utilizing airport property in the most recently completed calendar year.

(2) The terms of a rental facility agreement may be interpreted and enforced by a court of competent jurisdiction through the imposition of a mandatory or prohibitive injunction. Monetary damages may not be awarded to a vehicle rental company or to a person required to pay the customer facility charge for a violation of the terms and conditions of the rental facility agreement.

(d) Limitations.--

(1) Notwithstanding the authorization for the use of the proceeds of the customer facility charge under subsection (g) and except as provided in paragraph (2), until a rental facility agreement is executed, the proceeds of the customer facility charge may be used only for planning, design, feasibility studies and other preliminary expenses necessary for the uses authorized in subsection (g).

(2) If a rental facility agreement is not executed within two years following the date a vehicle rental company is required to begin collecting the customer facility charge, a city may continue to impose and collect the customer facility charge authorized under this section after notice to the vehicle rental companies. The city may use the proceeds of the customer facility charge in the manner authorized by subsection (g) except that any expenses imposed on vehicle rental companies may not exceed the proceeds of the customer facility charge.

(e) Additional cost.--A customer facility charge shall be in addition to other motor vehicle rental fees and taxes imposed under law, except that the customer facility charge may not constitute part of the purchase price of a motor vehicle rental imposed under any of the following:

(1) Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(2) The act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(3) A law similar to the statutes under paragraphs (1) and (2).

(f) Collection.--The following shall apply:

(1) A customer facility charge shall be:

(i) collected from a customer by a vehicle rental company and held in a segregated trust fund for the benefit of the airport owner; and

(ii) paid to the airport owner:

(A) by the last day of the month following the month in which the customer facility charges are collected; or

(B) if necessary to facilitate a pledge under subsection (h), at an earlier date as designated by the airport owner, but not sooner than the 15th day of the month following the month in which the customer facility charge is collected.

(2) A customer facility charge shall not constitute gross receipts or income of a vehicle rental company for the purpose of tax imposed by the Commonwealth, a city or a municipality.

(3) Money in a segregated trust fund under paragraph (1) may not be pledged, subjected to a lien or encumbered by a vehicle rental company.

(g) Use.--Proceeds of the customer facility charge shall be deposited by the airport owner into a segregated account to be used solely for:

(1) The planning, development, financing, construction and operation of a rental facility and rental facility improvements.

(2) Transportation system costs.

(3) Rental facility operations and maintenance expenses.

(h) Pledge.--An airport owner may pledge customer facility charge revenues for any of the following:

(1) To support debt to finance any use authorized under subsection (g).

(2) The creation and maintenance of reasonable reserves and for the payment of debt service for any use authorized under subsection (g).

(i) Administration.--An airport owner may do any of the following:

(1) Require a vehicle rental company to provide periodic statements of account, file returns, authorize payments and maintain records, in accordance with the vehicle rental company's obligations under this subchapter.

(2) Conduct an examination to ensure a vehicle rental company's compliance with its obligations under this subchapter and may do the following:

(i) Collect an amount due.

(ii) Impose a lien and file a suit to recover an amount due.

(iii) Grant a refund.

(iv) Require the payment of an authorized addition to a customer facility charge, interest and penalty.

(v) Adopt rules and regulations to implement this section.

(vi) Seek criminal penalties for failure to comply with the requirements of this subchapter in the same manner as a city is authorized to do under law for the collection of taxes.

(j) Commonwealth agreement.--The Commonwealth agrees as follows:

(1) With any person, firm or corporation, government agency, whether in this Commonwealth or elsewhere, and with any Federal agency subscribing to or acquiring debt obligations secured by customer facility charges, that the Commonwealth will not limit or alter the rights vested in the airport owner under this subchapter in a manner inconsistent with the obligations of an airport owner to the obligees of the airport owner until all debt obligations

secured by customer facility charges and interest on the debt obligations are fully paid or provided for.

(2) With any Federal agency that, if the Federal agency contributes funds to support any projects needed for the implementation of this subchapter, the Commonwealth will not alter or limit the rights and powers of the airport owner in a manner which would be inconsistent with the due performance of any agreement between the airport owner and a Federal agency of which the Commonwealth has knowledge.

Cross References. Section 5933 is referred to in section 5932 of this title.

CHAPTER 61
AVIATION DEVELOPMENT

Subchapter

A. Preliminary Provisions
B. Reimbursement of Local Real Estate Taxes for Public Airports
C. Jet Fuels Tax
D. Aviation Development Loan Program
E. Bond Issuance

Enactment. Chapter 61 was added October 10, 1984, P.L.837, No.164, effective immediately.

SUBCHAPTER A
PRELIMINARY PROVISIONS

Sec.

6101. Short title of chapter.
6102. Administration of chapter.
6103. Service fees.
6104. Construction of chapter.

§ 6101. Short title of chapter.

This chapter shall be known and may be cited as the Aviation Development Act.

§ 6102. Administration of chapter.

The department shall, in the manner provided by law, promulgate the rules and regulations necessary to carry out this chapter, and the department shall administer this chapter in relation to the conduct and operation of State aviation programs.

§ 6103. Service fees.

(a) General rule.--The department may by regulation establish appropriate fees for aviation services including:

(1) Crash fire rescue training.
(2) Landing area site inspections.
(3) Issuance of private airport licenses.
(4) Special aviation license board meetings.

(b) Recoupment of certain costs.--The department may recoup any costs incurred in the placement of appropriate runway markings on airport runways and highway directional signs to airports. The costs of highway direction signs shall be recouped from the Aviation Restricted Account.

(c) Prohibition.--The department may not impose or collect a fee for the privilege of landing aircraft at State-owned airports on persons engaged in flight instruction or on noncommercial flight operations.

§ 6104. Construction of chapter.

(a) Federal programs unaffected.--Nothing in this chapter shall be construed to affect or impair the distribution or use of any Federal aviation moneys allocated pursuant to Federal aviation assistance programs.

(b) Alleviation of unemployment.--It is the declared policy of this Commonwealth that the money raised by the tax imposed by this chapter be used, to the greatest extent possible, to create jobs and to rehire the unemployed in this Commonwealth. In order to reach this goal, firms with facilities based in this Commonwealth shall be actively solicited to make bids on contracts to furnish products and materials including, but not limited to, steel and steel products, to be used in the projects funded through this chapter.

SUBCHAPTER B
REIMBURSEMENT OF LOCAL REAL ESTATE TAXES FOR PUBLIC AIRPORTS

Sec.

6121. Tax on aviation fuels.
6122. Allocation of funds.
6123. Denial of reimbursement.
6124. Agreement of maintenance.

§ 6121. Tax on aviation fuels.

(a) Imposition.--There is hereby imposed, effective July 1, 1984, an additional State tax of 1.5¢ per gallon, or fractional part thereof, on all fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in propeller-driven piston aircraft or aircraft engines as provided for in the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act.

(b) Annual adjustment.--Beginning on January 1, 1985, and each January 1 thereafter, the tax imposed under this section shall be adjusted annually and shall be set for that calendar year. The adjustment shall be based upon the percentage change of the Producer Price Index for Jet Fuel, as determined by the Bureau of Labor Statistics for the United States Department of Labor for the most recent 12-month period available as of the immediately preceding November 1. For every 10% increase or decrease in the Producer Price Index, there shall be a 0.1¢ per gallon, or fractional part thereof, increase or decrease in the rate of tax. The rate of tax shall be determined by the Secretary of Revenue, who shall cause such rate to be published as a notice pursuant to 45 Pa.C.S. § 725(a)(3) (relating to additional contents of Pennsylvania Bulletin) in the Pennsylvania Bulletin on or before December 15 of each year. The tax, as adjusted, shall never exceed 6¢ per gallon, or fractional part thereof, nor shall it be less than 3¢ per gallon, or fractional part thereof.

(c) Construction of section.--This section shall be construed in conjunction with The Liquid Fuels Tax Act, which shall apply to the collection, administration and enforcement of the tax imposed under this section.

Effective Date of Tax. Section 4 of Act 164 of 1984 provided that, if Act 164 was not finally enacted on or before July 1, 1984, the tax imposed under section 6121 shall not be effective as of July 1, 1984, but shall be effective on the first day of the first month following final enactment (November 1, 1984).

References in Text. The act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, referred to in this section, was repealed by the act of April 17, 1997 (P.L.6, No.3). The subject matter is now contained in Chapter 90 of Title 75 (relating to liquid fuels and fuels tax).

§ 6122. Allocation of funds.

(a) Grants.--Each year the owner of a public airport shall be eligible for a grant from the local real estate tax reimbursement portion of the Aviation Restricted Account. Except as otherwise provided in subsection (d), the grant shall be equal to the amount of local real estate tax paid on those portions of an airport which are aviation-related areas.

(b) Application form.--The owner of a public airport shall apply for the grant provided for in this section in the manner and on the forms as prescribed by the department.

(c) Notice to State Treasurer.--The department, following its review of each application for a grant, shall notify the State Treasurer of each applicant who qualifies therefor and the amount of the grant to which each applicant is eligible. Within 30 days of receiving the notification, the State Treasurer shall issue the grant to the qualifying applicant.

(d) Limit on grant.--The total grant of moneys in any one year shall not exceed a sum equal to the moneys collected on the sale of fuels sold for use in propeller-driven piston aircraft or aircraft engines for the previous year, plus any income earned on the fund. In the event that there are insufficient funds in the fund to meet the total annual grants provided for under this section, the department shall make such grants on a pro rata basis. In the event that there are surplus funds in the fund with which to meet the total annual grants provided for under this section, the department may make additional grants to public airport owners, which shall be used for airport development purposes.

(e) Administrative costs.--The costs of administering the grant program under this section shall be paid out of the revenues described in section 5103(c) (relating to Aviation Restricted Account). The costs of administering this program shall not exceed 10% of such revenues collected for that year.

References in Text. Section 5103(c), referred to in this section, is repealed. The subject matter is now contained in section 530 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

Cross References. Section 6122 is referred to in section 6124 of this title.

§ 6123. Denial of reimbursement.

Any applicant found not eligible for a grant, or for any portion thereof, shall receive written notice that his application has been denied and the reason for the denial.

§ 6124. Agreement of maintenance.

(a) Terms.--Prior to applying for an appropriation under section 6122 (relating to allocation of funds), every public airport owner shall enter into an agreement with the department. This agreement shall specify that the owner shall continue to maintain the property for which the grant will be sought as an airport, at least equal in size and capacity to its size and capacity as of the owner's initial grant application, for a period of not less than ten years.

(b) Covenant.--The agreement specified under this section shall be a covenant which runs with the land and, upon the acceptance of any grant, the covenant shall be deemed extended for one additional year.

(c) Violation.--Any violation of the agreement shall make the owner liable for the repayment of the total appropriation for that year plus a penalty of two times the grant. In any action wherein the owner is found to have violated the agreement, the department shall receive all costs of prosecution.

SUBCHAPTER C
JET FUELS TAX

Sec.
6131. Tax on jet fuels.

§ 6131. Tax on jet fuels.

(a) Imposition.--There is hereby imposed, effective July 1, 1984, a State tax of 1.1¢ per gallon, or fractional part thereof, on all fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in turbine-propeller jet, turbojet and jet-driven aircraft and aircraft engines. The tax shall be increased by 0.2¢ per gallon, or fractional part thereof, effective January 1, 1985, and by 0.2¢ per gallon, or fractional part thereof, effective July 1, 1985. Distributors shall be liable to the Commonwealth for the collection and payment of the tax imposed by this section. The tax shall be collected by the distributor and shall be paid to the Commonwealth only once with respect to any fuels.

(b) Annual adjustment.--Beginning on January 1, 1986, and each January 1 thereafter, the tax imposed under this section shall be adjusted annually and shall be set for that calendar year. The adjustment shall be based upon the percentage change of the Producer Price Index for Jet Fuel, as determined by the Bureau of Labor Statistics for the United States Department of Labor, for the most recent 12-month period available as of the immediately preceding November 1. For every 10% increase or decrease in the Producer Price Index, as determined by comparing the index for the first month of the 12-month period with the index for the last month of the period, there shall be a 0.1¢ per gallon, or fractional part thereof, increase or decrease in the rate of tax. The rate of tax shall be determined by the Secretary of Revenue, who shall cause such rate to be published as a notice pursuant to 45 Pa.C.S. § 725(a)(3) (relating to additional contents of Pennsylvania Bulletin) in the Pennsylvania Bulletin on or before December 15 of each year. The tax, as adjusted, shall never exceed 2¢ per gallon, or fractional part thereof, nor shall it be less than 1.5¢ per gallon, or fractional part thereof.

(c) Construction of section.--This section shall be construed in conjunction with the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, as if jet fuels were liquid fuels as defined in that act, and all of the provisions of that act, except for section 4 thereof to the extent it imposes any tax, shall apply to the collection, administration and enforcement of the tax imposed under this section. Upon the effective date of the tax imposed by this section upon jet fuels, such jet fuels shall not be subject to the tax imposed by the act of January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act, except that dealer-users shall remain liable to report and pay the fuel use tax on any jet fuels used thereafter upon which the tax provided by this section has not been imposed.

(d) Disposition of taxes.--All moneys collected under this section shall be deposited by the State Treasurer in the Aviation Restricted Account.

Effective Date of Tax. Section 4 of Act 164 of 1984 provided that, if Act 164 was not finally enacted on or before July 1, 1984, the tax imposed under section 6131 shall not be effective as of July 1, 1984, but shall be effective on the first day of the first month following final enactment (November 1, 1984).

References in Text. The act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, referred to in subsec. (c), was repealed by the act of April 17, 1997 (P.L.6, No.3). The subject matter is now contained in Chapter 90 of Title 75 (relating to liquid fuels and fuels tax).

The act of January 14, 1952 (1951 P.L.1965, No.550), known as the Fuel Use Tax Act, referred to in subsec. (c), was repealed by the act of April 17, 1997 (P.L.6, No.3). The subject matter is now contained in Chapter 90 of Title 75 (relating to liquid fuels and fuels tax).

SUBCHAPTER D
AVIATION DEVELOPMENT LOAN PROGRAM

Sec.
6141. Terms of loans.
6142. Denial of loan application.
6143. Enforcement of loan agreement.

§ 6141. Terms of loans.

(a) Application.--The owner or operator of a public airport may apply for a loan from the Aviation Development Account. Applications for the loans shall be made in such manner and on such forms as are prescribed by the department.

(b) Limits on loans.--The department may, prior to approving any loan, appropriate from the Aviation Development Account an amount equal to the cost of administering the cost of the aviation development loan program. The department, following its review of each loan application, may approve any loan sought solely for aviation development at an airport located in this Commonwealth. No loan shall be approved for more than 10% of the total moneys contained in the Aviation Development Account at the time when the loan is applied for, or $100,000, whichever is greater.

(c) Interest and repayment period.--All loans approved by the department under this section shall bear interest at a rate substantially equal to the department's cost of administering the airport development program, including debt service, and shall be repaid within a period not to exceed ten years.

(d) Notice to treasurer.--The department, following its review of each loan application, shall notify the treasurer of each applicant who qualifies for a loan and the amount of the loan for which the applicant is eligible. Within 30 days of receiving this notice, the treasurer shall issue to the qualifying applicant the full amount of the loan.

§ 6142. Denial of loan application.

Any applicant deemed not eligible for a loan shall receive written notice that the loan has been denied and the reason for denial.

§ 6143. Enforcement of loan agreement.

(a) Posting of security.--The department may, prior to its approval of any loan application, require that the applicant post with the department such security as will assure compliance

with the terms of the loan. The amount that shall be posted shall not exceed 25% of the loan application. After a period of demonstrated compliance with the loan agreement, the department may reduce the amount posted or may eliminate the posting entirely. In the event of a default, the security shall be utilized for the retirement of the bonds provided for in Subchapter E (relating to bond issuance).

(b) Lien.--Upon entering into an agreement with a loan applicant, the department may enter a lien against the property of the applicant. The lien shall attach to all property and rights to the property immediately upon acquisition of any interest therein by any other corporation, association or person, whether the interest be legal, equitable or subject to a security interest as defined by Title 13 (relating to commercial code), including any interest that may be created therein pursuant to a trust, lien or other device by a creditor of the corporation, association or person to secure repayment of any obligation of the corporation, association or person.

(c) Recording and priority.--The department shall record the lien provided for under this section with the office of the prothonotary of the county wherein the airport is located and the lien shall be given a priority exceeded only by claims of the Federal Government, insofar as the laws of the United States may give a prior claim to the Federal Government.

(d) Release and appeal.--The department shall release the lien upon a showing by the applicant that he has not violated the loan agreement. The applicant may appeal a determination by the department that he has violated the agreement to the Board of Finance and Revenue. The appeal shall be made in accordance with Title 2 (relating to administrative law and procedure), including appeal to the courts.

SUBCHAPTER E
BOND ISSUANCE

Sec.

6161. Authority to borrow.
6162. Bonds.
6163. Sale of bonds.
6164. Refunding bonds.
6165. Disposition and use of proceeds.
6166. Registration of bonds.
6167. Information to General Assembly.
6168. Redemption of bonds.
6169. Expenses of preparation, issue and sale of bonds.

Cross References. Subchapter E is referred to in section 6143 of this title.

§ 6161. Authority to borrow.

The Governor, Auditor General and State Treasurer are hereby authorized to borrow, by the issuance of limited obligations of the Commonwealth, money not exceeding $25,000,000 for aviation development throughout this Commonwealth.

§ 6162. Bonds.

(a) Issuance.--As evidence of the indebtedness authorized, limited obligation bonds of the Commonwealth payable solely from the Aviation Development Account may be issued from time to time for such terms and conditions of issue, redemption and maturity, rate or rates of interest and time of payment of interest, as the Governor, Auditor General and State Treasurer shall direct, except that the latest stated maturity date shall

not exceed ten years from the date of the bond first issued for each series.

(b) Signatures.--All bonds issued under this chapter shall bear facsimile signatures of the Governor, Auditor General and State Treasurer, and a facsimile of the Great Seal of the Commonwealth of Pennsylvania, and shall be countersigned by one authorized officer of the authorized loan and transfer agent of the Commonwealth.

(c) Limited obligation of Commonwealth.--All bonds issued under this subchapter shall not be deemed to pledge the full faith and credit of the Commonwealth but shall be limited obligations of the Commonwealth, payable solely from the Aviation Development Account, which is hereby pledged to the extent necessary for the payment of the interest thereon as it becomes due and the payment of the principal thereof at maturity. All bonds issued under this subchapter shall be exempt from taxation for State and local purposes. The principal of and the interest on the bonds shall be payable in lawful money of the United States of America.

(d) Type of bonds.--The bonds may be issued in certificate or book-entry form as the issuing officials may determine.

(e) Amortization and retirement.--The issuing officials shall provide for the amortization of the bonds in substantial and regular amounts over the term of the debt. The first retirement of principal shall be stated to mature prior to the expiration of a period of time equal to one-tenth of the time from the date of the first obligation issued to evidence the debt to the date of the expiration of the term of the debt. Retirements of principal shall be regular and substantial if made in annual or semiannual amounts whether by stated serial maturities or by mandatory sinking fund retirements computed in accordance with either a level annual debt service plan, as nearly as may be, or upon the equal annual maturities plan.

(f) Printing.--The Governor, Auditor General and State Treasurer shall proceed to have the necessary bonds prepared and printed. The bonds, as soon as they are prepared and printed, shall be forthwith deposited with the duly authorized loan and transfer agent of the Commonwealth, there to remain until sold in accordance with the provisions of this subchapter.

§ 6163. Sale of bonds.

(a) Public sale.--Whenever bonds are issued, they shall be offered for sale at not less than 98% of the principal amount and accrued interest and shall be sold by the Governor, Auditor General and State Treasurer to the highest and best bidder or bidders after due public advertisement, on such terms and conditions and upon such open competitive bidding as the Governor, Auditor General and State Treasurer shall direct. The manner and character of the advertisement and the times of advertising shall be prescribed by the Governor, Auditor General and State Treasurer.

(b) Private sale.--Any portion of any bond issue so offered and not sold or subscribed for may be disposed of by private sale by the Governor, Auditor General and State Treasurer in such manner and at such prices, not less than 98% of the principal amount and accrued interest, as the Governor shall direct. No commission shall be allowed or paid for the sale of any bonds issued under the authority of this subchapter.

(c) Series.--When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the issuing officials or may be combined for sale as one series with general obligation bonds of the Commonwealth.

§ 6164. Refunding bonds.

The Governor, Auditor General and State Treasurer are authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any bonds issued under the provisions of this subchapter and then outstanding, either by voluntary exchange with the holders of the outstanding bonds, or to provide funds to redeem and retire the outstanding bonds with accrued interest and any premium payable thereon, at maturity or at any call date. The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the Governor, Auditor General and State Treasurer in respect to them shall be governed by the provisions of this subchapter, insofar as they may be applicable. Refunding bonds may be issued by the Governor, Auditor General and State Treasurer to refund bonds originally issued or to refund bonds previously issued for refunding purposes.

§ 6165. Disposition and use of proceeds.

(a) Aviation Development Account.--The proceeds realized from the sale of bonds under the provisions of this subchapter and all payments of interest on loans made and repayments of principal on such loans shall be paid into the Aviation Development Account which is hereby established and which shall be used for aviation development loans in this Commonwealth.

(b) Development loans and repayments.--Each owner or operator of a public airport may apply for a development loan from the Aviation Development Account. Applications for the loans shall be made in such manner and on such forms as are prescribed by the department. Development loans made under the provisions of this subchapter shall not exceed a period of ten years. Proceeds from repayment of the loans, including principal and interest thereon, shall be credited to the Aviation Development Account.

(c) Interest.--Pending their application to the purposes authorized, moneys held or deposited by the State Treasurer may be invested or reinvested as other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of the funds shall be paid into the State Treasury to the credit of the Aviation Development Account.

§ 6166. Registration of bonds.

The Auditor General shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the Commonwealth for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the Governor, Auditor General and State Treasurer. All bonds which are issued shall be registered in the registry books kept by the duly authorized loan and transfer agent of the Commonwealth.

§ 6167. Information to General Assembly.

It is the duty of the Governor to include, in every budget submitted to the General Assembly, full information relating to the issuance of bonds by the Commonwealth for the payment of the interest on the bonds and the principal thereof at maturity.

§ 6168. Redemption of bonds.

All bonds issued under the authority of this subchapter shall be redeemed at maturity and all interest due from time to time shall be paid from the Aviation Development Account.

§ 6169. Expenses of preparation, issue and sale of bonds.

There is hereby appropriated to the State Treasurer, from the proceeds of the bonds issued, as much moneys as may be necessary for all costs and expenses in connection with the

issue of sale and registration of the bonds in connection with this subchapter.

CHAPTER 63
AVIATION ADVISORY COMMITTEE

Sec.
6301. Short title of chapter.
6302. Findings and declaration of policy.
6303. Definitions.
6304. Aviation Advisory Committee.

Enactment. Chapter 63 was added December 15, 1999, P.L.911, No.58, effective immediately.

§ 6301. Short title of chapter.

This chapter shall be known and may be cited as the Aviation Advisory Committee Act.

§ 6302. Findings and declaration of policy.

(a) Findings.--It is hereby determined and declared as a matter of legislative findings that:

(1) The welfare and vitality of this Commonwealth, the satisfactory movement of people and goods within this Commonwealth and the economic health of Commonwealth industries must be preserved and enhanced.

(2) Federal and State assistance for the preservation, rehabilitation and improvement of efficient and coordinated aviation transportation services, systems and facilities is essential.

(3) The aviation transportation issues within this Commonwealth necessitate that a continuous aviation systems planning process be implemented concerning this Commonwealth's aviation transportation services, systems and facilities and concerning their preservation and improvement.

(4) Cooperative efforts between the aviation industry and State government can be useful in addressing issues of common concern.

(b) Policy declaration.--The purpose of this chapter is to further the public interest and aeronautical progress by providing for the protection, promotion and development of aeronautics within this Commonwealth.

§ 6303. Definitions.

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

"Committee." The Aviation Advisory Committee created by this chapter.

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

"Secretary." The Secretary of Transportation of the Commonwealth.

"State Transportation Commission." The commission created in section 2011 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, or any successor organization.

§ 6304. Aviation Advisory Committee.

(a) Creation.--There is hereby created an Aviation Advisory Committee, which shall consist of 25 members. The members shall be as follows:

(1) The Secretary of Transportation.

(2) The Secretary of Community and Economic Development.

(3) The chairman and minority chairman of the Transportation Committee of the Senate.

(4) The chairman and minority chairman of the Transportation Committee of the House of Representatives.

(5) Nineteen members of the public representing the areas of concern specified, who shall have extensive experience and knowledge of air transportation activities throughout this Commonwealth, to be appointed by the Governor as follows:

(i) Three persons from the board of directors of the Aviation Council of Pennsylvania.

(ii) Two persons from the airline industry.

(iii) One person from the aviation manufacturing/maintenance industry.

(iv) Four persons from Pennsylvania's airport system.

(v) Two persons representing general aviation fixed base operators.

(vi) One person representing the air cargo industry.

(vii) Two persons representing the metropolitan planning organizations and local development districts in this Commonwealth.

(viii) One pilot representing the pilot community in this Commonwealth.

(ix) Three members of the general public.

(b) Designees.--Each of the members of the committee may designate a representative to serve in his or her stead. A member who designates a representative shall notify the chairman in writing of the designation.

(c) Terms of appointees.--The term of all members of the committee appointed by the Governor shall be for three years. Any member of the committee may be reappointed for an additional term or terms. Any person appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall serve only for the unexpired term. Each member shall serve until the appointment of a successor.

(d) Meetings and expenses.--

(1) The committee shall meet at least four times every 12 months but may hold such additional meetings as are called by the chairman or by petition of at least six committee members. The chairman shall provide notice at least 14 days in advance for regular meetings and provide a minimum of three days' notice for special meetings. A majority of the appointed members shall constitute a quorum for the conduct of business. The secretary shall maintain a record of meeting attendance by members and shall provide written notice to members who miss two consecutive meetings. Three consecutive absences of committee meetings by a member shall be grounds for removal if affirmed by a majority vote of the committee.

(2) Minutes of meetings shall be prepared by the secretary and filed with the committee and distributed to all members. All records shall be a matter of public record.

(3) The public members of the committee shall be allowed reasonable per diem expenses to be set by the committee. The department shall provide appropriate staff support to enable the committee to properly carry out its function.

(e) Powers and duties.--The committee shall have the power and duty to:

(1) Make recommendations to promote and preserve the aviation and the air transportation system in this Commonwealth and propose methods, strategies or technologies that can be used to improve these systems.

(2) Provide guidance on aviation-related issues to the Governor, the General Assembly, the secretary and the State Transportation Commission.

(3) Promote aviation systems and capital infrastructure improvements.

(4) Review the department's capital project program prioritization process and provide recommendations on the method for determining priorities among locations.

(5) Guide the department's continuous State aviation systems planning process.

(6) Review and promote Federal and State aviation rules and regulations as may be proper and necessary to promote and develop beneficial aviation practices and operations.

(7) Promote aviation education opportunities and encourage research and development for aviation safety and security.

(8) Define intermodal opportunities for airports within this Commonwealth.

(9) Provide a forum for exchange of information concerning the users' view of needs and requirements of this Commonwealth's aviation systems.

(10) Address other appropriate aviation issues that arise from time to time.

(f) Reports.--The committee shall submit reports of its deliberations and conclusions to the Governor, members of the General Assembly and the State Transportation Commission.

(g) Chairperson.--The Governor shall appoint one member of the committee as chairperson. The members of the committee shall annually elect a vice chairperson, a secretary and a treasurer from among the members appointed to the committee.

(June 29, 2006, P.L.218, No.55, eff. 60 days)

2006 Amendment. Act 55 amended subsec. (c).

CHAPTER 65
FLYING WHILE IMPAIRED

Sec.

6501. Definitions.
6502. Offense.
6503. Penalty.
6504. Testing.
6505. Reporting.

Enactment. Chapter 65 was added July 5, 2005, P.L.32, No.10, effective in 90 days.

§ 6501. Definitions.

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

"Flight crew." Any person who performs or is assigned to perform any duty in an aircraft during the time which the aircraft is undergoing preflight inspection or maintenance or boarding or carrying passengers or crew or at any time the aircraft is under power or in flight.

"Law enforcement officer." Includes any officer with current certification as provided for in 53 Pa.C.S. Ch. 21 Subch. D (relating to municipal police education and training).

§ 6502. Offense.

(a) General rule.--No individual may act or attempt to act as flight crew of an aircraft in this Commonwealth:

(1) while under the influence of alcohol;

(2) while under the influence of a controlled substance which affects the individual's faculties in any way contrary to safety;

(3) when the alcohol concentration in the individual's blood or breath, as measured within two hours of the time of operation, or attempted operation, is 0.02% or more;

(4) while under the influence of any combination of a controlled substance and alcohol which affects the individual's faculties in any way contrary to safety; or

(5) within eight hours after consumption of "liquor" or a "malt or brewed beverage" as defined in section 102 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(b) Owner.--An owner of an aircraft or the person in charge of an aircraft may not knowingly permit an individual to act or attempt to act as flight crew of an aircraft if the individual is under the influence of alcohol or a controlled substance, or any combination thereof, which affects the individual's faculties in any way contrary to safety.

Cross References. Section 6502 is referred to in sections 6503, 6504 of this title.

§ 6503. Penalty.

(a) General rule.--Except as provided in subsection (b), an individual who violates section 6502 (relating to offense) commits a misdemeanor of the second degree and shall, upon conviction, be sentenced to all of the following:

(1) To pay a fine of not less than $1,000 nor more than $5,000.

(2) To imprisonment for not less than 72 consecutive hours.

(3) For a violation of section 6502(a), to undergo evaluation for substance abuse and, if the evaluation indicates substance abuse, to undergo treatment ordered by the court.

(b) Accidents.--An individual who violates section 6502 where there was an accident resulting in bodily injury, serious bodily injury or death of any person or in damage to an aircraft or other property commits a misdemeanor of the second degree and shall, upon conviction, be sentenced as follows:

(1) To pay a fine of not less than $5,000 nor more than $10,000.

(2) To undergo imprisonment for not less than 30 days.

(3) For a violation of section 6502(a), to undergo evaluation for substance abuse and, if the evaluation indicates substance abuse, to undergo treatment ordered by the court.

Cross References. Section 6503 is referred to in section 6504 of this title.

§ 6504. Testing.

(a) Prearrest.--If a law enforcement officer has reasonable grounds to believe an individual has violated section 6502(a) (relating to offense), the officer may request that the individual submit to a preliminary test of blood, breath or urine on a device approved by the Department of Health for the purpose of assisting the officer in determining whether the individual is in violation of section 6502(a) and should be placed under arrest. It shall be the duty of the law enforcement officer to inform the individual at the time of the request of the penalties for refusal under subsection (c) and the reporting

requirements under section 6505 (relating to reporting). If the individual after being notified of the penalties and reporting requirements refuses to submit to chemical testing, the test shall not be conducted. Nothing in this section shall be construed to require a law enforcement officer to request an individual to submit to a chemical test prior to placing the individual under arrest for a violation of section 6502(a).

(b) Postarrest.--If an individual is arrested for violation of section 6502(a), the individual shall submit to one or more chemical tests of breath, blood or urine for the purpose of determining the alcoholic content of blood or the presence of a controlled substance. It shall be the duty of the law enforcement officer to inform the individual at the time of the request of the penalties for refusal under subsection (c) and the reporting requirements under section 6505. If the individual after being notified of the penalties and reporting requirements refuses to submit to chemical testing, the test shall not be conducted.

(c) Refusal.--Notwithstanding section 6503(1) (relating to penalty), an individual who violates section 6502(a) and who refuses to submit to a test requested or required under subsection (a) or (b) shall be sentenced to pay a fine of not less than $2,500 nor more than $5,000.

(d) Test results admissible in evidence.--In a civil proceeding arising out of a violation of section 6502 or in a prosecution under section 6502, the amount of alcohol or the presence of a controlled substance in the individual's blood as shown by chemical testing, conducted by a qualified individual using approved equipment, of the individual's breath, blood or urine shall be admissible in evidence. The following apply:

(1) Chemical tests of breath must be performed on devices approved by the Department of Health using procedures prescribed jointly by regulations of the Department of Health and the Department of Transportation. Devices must have been calibrated and tested for accuracy within a period of time and in a manner specified by regulations of the departments. For purposes of breath testing, a "qualified individual" means an individual who has fulfilled the training requirement in the use of the equipment in a training program approved by the departments. A certificate or log showing that a device was calibrated and tested for accuracy and that the device was accurate shall be presumptive evidence of those facts in every proceeding in which a violation of this chapter is charged.

(2) (i) Chemical tests of blood or urine, if conducted by a facility located in this Commonwealth, must be performed by a clinical laboratory licensed and approved by the Department of Health for this purpose using procedures and equipment prescribed by the Department of Health or by a Pennsylvania State Police criminal laboratory. For purposes of blood and urine testing, a "qualified individual" means an individual who is authorized to perform those chemical tests under the act of September 26, 1951 (P.L.1539, No.389), known as The Clinical Laboratory Act.

(ii) For purposes of blood and urine testing to determine blood alcohol or controlled substance content levels, the procedures and equipment prescribed by the Department of Health shall be reviewed within 120 days of the effective date of this subparagraph and at least every two years thereafter to ensure that consideration is given to scientific and technological advances so

that testing conducted in accordance with the prescribed procedures utilizing the prescribed equipment will be as accurate and reliable as science and technology permit.

(3) Chemical tests of blood or urine, if conducted by a facility located outside this Commonwealth, must be performed:

(i) by a facility licensed and approved by the Department of Health for this purpose; or

(ii) by a facility licensed to conduct the tests by the state in which the facility is located and licensed pursuant to the Clinical Laboratory Improvement Amendments of 1988 (Public Law 100-578, 102 Stat. 2903).

(e) Refusal admissible in evidence.--In a civil action arising out of a violation of section 6502 or a prosecution under section 6502, the fact that the individual refused to submit to chemical testing as required by subsection (a) or (b) may be introduced in evidence along with other testimony concerning the circumstances of the refusal. No presumptions shall arise from this evidence, but it may be considered along with other factors concerning the charge.

(f) Other evidence admissible.--This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of the amount of alcohol or the presence of a controlled substance in the defendant's blood.

(g) Test results available to defendant.--Upon the request of the individual tested or the individual charged under section 6502(b), the results of a chemical test shall be made available to the individual or the individual's attorney.

(h) Test by personal physician.--The individual tested shall be permitted to have a physician of the individual's choosing administer an additional breath, blood or urine chemical test, and the results of the test shall also be admissible in evidence. The chemical testing given at the direction of the law enforcement officer shall not be delayed by the individual's attempt to obtain an additional test.

(i) Request by individual.--An individual involved in an accident or placed under arrest for a violation of section 6502 may request a chemical test of the individual's breath, blood or urine. A request under this subsection shall be honored when it is reasonably practicable to do so.

(j) Immunity from civil liability and reports.--No physician, nurse or technician or hospital employing the physician, nurse or technician, and no other employer of the physician, nurse or technician, shall be civilly liable for withdrawing blood or obtaining a urine sample and reporting test results at the request of a law enforcement officer pursuant to this section. No physician, nurse or technician or hospital employing the physician, nurse or technician may administratively refuse to perform a test and provide the results except for good cause.

Cross References. Section 6504 is referred to in section 6505 of this title.

§ 6505. Reporting.

A law enforcement officer shall report to the Federal Aviation Administration:

(1) the name of the individual and the results of the individual's chemical test administered under section 6504(b) (relating to testing); and

(2) the name of an individual that refused to submit to a chemical test under this chapter.

Cross References. Section 6505 is referred to in section 6504 of this title.

PART IV
HIGHWAYS

Chapter
81. Turnpike
82. Turnpike Commission Standards of Conduct
83. Scenic Highways
84. Motor Carriers

Enactment. Part IV was added August 5, 1991 (P.L.238, No.26), effective immediately.

CHAPTER 81
TURNPIKE

Sec.
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Enactment. Chapter 81 was added July 18, 2007 (P.L.169, No.44), effective immediately and retroactive to July 1, 2007.

Prior Provisions. Chapter 81 (Subchapters A and B) was added August 5, 1991 (P.L.238, No.26), and repealed November 24, 1992 (P.L.725, No.109), effective in 60 days. The subject matter is now contained in Chapter 89 of Title 75 (relating to Pennsylvania Turnpike).

Special Provisions in Appendix. See section 11 of Act 44 of 2007 in the appendix to this title for special provisions relating to continuation of prior law.

§ 8101. Scope of chapter.

This chapter relates to turnpike organization, extension and toll road conversion.

§ 8102. Definitions.

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

"Commission." The Pennsylvania Turnpike Commission.

"Cost of the department." The term includes the costs of all of the following:

(1) Constructing, reconstructing, widening, expanding or extending the State highway and rural State highway system and connecting roads, tunnels and bridges.

(2) Systems of public passenger transportation or portions of the systems, the placing of the systems in operation and the condemnation of property necessary for construction and operation of the systems.

(3) Lands, property rights, rights-of-way, easements and franchises acquired, which are deemed necessary or convenient for the construction, reconstruction, widening, expanding or extending under paragraph (1) or (2).

(4) Machinery and equipment, financing charges, interest prior to and during construction and for one year after completion of construction.

(5) Any of the following:

(i) Traffic estimates, engineering and legal expenses, plans, specifications, surveys, estimates of cost and of revenues.

(ii) Other expenses necessary or incident to determining the feasibility or practicability of the enterprise. This subparagraph includes administrative and legal expenses.

(iii) Other expenses as may be necessary or incident to the financing authorized under this chapter, the construction, reconstruction, widening, expanding or extending of the State highway and the rural State highway system and connecting roads, tunnels and bridges.

(6) Any obligation or expense contracted for by the department or with the United States or an agency of the United States, for traffic surveys, preparation of plans and specifications, supervision of construction and other engineering, administrative and legal services and expenses in connection with the construction, reconstruction, widening, expanding or extending of the State highway and rural State highway system or any of the connecting roads, tunnels and bridges or the costs of the systems of public passenger transportation or portions of the systems.

(7) Payment of any notes or other obligations if the notes or other obligations were issued for the payment of a cost of the department.

"Cost of the turnpikes." The term includes the cost of:

(1) Constructing, reconstructing, widening, expanding or extending turnpikes, connecting roads, storm water management systems, buildings, interchanges, slip ramps, tunnels and bridges.

(2) Lands, property rights, rights-of-way, easements and franchises acquired by purchase or other means deemed necessary or convenient for construction.

(3) Machinery and equipment, financing charges and interest.

(4) Traffic estimates, engineering and legal expenses, plans, specifications, surveys, cost and revenue estimates, other expenses necessary or incident to determining the feasibility or practicability of the enterprise, administrative and legal expense and other expenses as may

be necessary or incident to the financing authorized in this chapter.

(5) Condemnation or other means of acquisition of property necessary for the construction and operation of the turnpikes.

(6) An obligation or expense contracted for by the commission with the department or with the United States or a Federal agency for any of the following:

(i) Traffic surveys, preparation of plans and specifications, supervision of construction and other engineering and administrative and legal services and expenses in connection with the construction, reconstruction, widening, expansion or extension of the turnpike or any of the connecting roads, storm water management systems, interchanges, slip ramps, tunnels and bridges.

(ii) Costs of reimbursing the Federal Government pursuant to the mandates of the Federal law for Federal funds expended for interstate or other highways which are to be made part of the turnpike system pursuant to this chapter.

(7) Any portion of the scheduled annual commission contribution required to be paid by the commission under 75 Pa.C.S. Ch. 89 (relating to Pennsylvania Turnpike).

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

"Electronic toll collection." A system of collecting tolls or charges that is capable of charging an account holder or a registered vehicle owner for the prescribed toll based on the automatic identification and classification of vehicles using electronic systems. The term includes a system of open road tolls, video tolls or other similar structural or technological enhancements pertaining to tolls.

"Electronic toll collection device." A piece of mechanical or electrical equipment used for electronic toll collection.

"Flat video toll." A toll rate that does not vary based on a video image which is charged to an account when the commission is able to match a license plate image to an account in good standing.

"Lessee." A person, corporation, firm, partnership, agency, association or organization that rents, leases or contracts for the use of a vehicle and has exclusive use of the vehicle for any period of time.

"Lessor." A person, corporation, firm, partnership, agency, association or organization engaged in the business of renting or leasing vehicles to any lessee under a rental agreement, lease or other agreement under which the lessee has the exclusive use of the vehicle for any period of time.

"Operator." An individual that uses or operates a vehicle with or without permission of the owner.

"Owner." Except as provided under section 8117(e) (relating to electronic toll collection), an individual, copartnership, association or corporation having title or interest in a property right, easement or franchise authorized to be acquired under this chapter.

"Public passenger transportation." Transportation within an area that includes a municipality or other built-up place that is appropriate in the judgment of the Department of Transportation to serve commuters or others in the locality taking into consideration the local patterns and trends of growth by bus or rail or other conveyance, either publicly or

privately owned, serving the general public. The term does not include school buses, charter or sightseeing services.

"Rural State highway system." All roads and highways taken over by the Commonwealth as State highways under the provisions of the act of June 22, 1931 (P.L.594, No.203), referred to as the Township State Highway Law, and all other roads and highways specifically designated by the Secretary of the Commonwealth as rural State highways.

"Secretary." The Secretary of Transportation of the Commonwealth.

"State highway." All roads and highways taken over by the Commonwealth as State highways under the provisions of any statute other than the act of June 22, 1931 (P.L.594, No.203), referred to as the Township State Highway Law. Unless clearly intended, the term shall not include any street in any city, borough or incorporated town, even though the street may have been taken over as a State highway.

"System of public passenger transportation." A system of public passenger transportation, including rail transportation facilities used for public passenger transportation, which may include any of the following:

(1) Railway, street railway, subway, elevated and monorail passenger or passenger and rail rolling stock, including self-propelled and gallery cars, locomotives, passenger buses and wires, poles and equipment for the electrification of any of the rails, tracks and roadbeds, guideways, elevated structures, buildings, stations, terminals, docks, shelters and parking areas for use in connection with the rail transportation systems, interconnecting lines and tunnels to provide passenger or passenger and rail service connections between transportation systems, transportation routes, corridors and rights-of-way therefor, but not for public highways.

(2) Signal and communication systems necessary or desirable for the construction, operation or improvement of a public passenger transportation system.

(3) Any improvement or overhaul of any vehicle equipment or furnishings of any of the items specified under paragraphs (1) and (2) or any part or fractional and undivided co-ownership or leasehold interest in any one or combination of any of the items specified under paragraphs (1) and (2) that may be designated as a system of public passenger transportation by the Secretary of Transportation.

"Toll collection system." A vehicle sensor, placed in a location to work in conjunction with a toll collection facility, which automatically produces a videotape or photograph, microphotograph or other recorded image of a vehicle, at the time the vehicle travels through a tolling point. The term includes any other technology which identifies a vehicle by photographic, mechanical, electronic or other method.

"Toll road conversion." The inclusion within the turnpike system and the imposition of tolls on the system of a highway that is presently toll free.

"Turnpikes." Any of the following:

(1) The turnpike, turnpike extensions and turnpike improvements.

(2) Toll-free roads converted or to be converted to toll roads under this chapter.

(3) Related storm water management systems, interchanges, slip ramps, tunnels and bridges, property rights, easements and franchises deemed necessary or convenient for the construction, reconstruction, widening,

expansion, extension or the operation of the turnpike, turnpike extension, turnpike improvement and toll-free roads.

"Vehicle." The term as it is defined under 75 Pa.C.S. § 102 (relating to definitions).

"Video toll." A toll based on a vehicle's license plate image when a valid electronic toll collection device is not read as the vehicle travels through a tolling point.

"Violation enforcement system." (Deleted by amendment). (Nov. 3, 2022, P.L.1734, No.112, eff. 60 days)

2022 Amendment. Act 112 amended the def. of "electronic toll collection," added the defs. of "electronic toll collection device," "flat video toll," "toll collection system" and "video toll" and deleted the def. of "violation enforcement system."

Cross References. Section 8102 is referred to in section 303 of this title.

§ 8103. (Reserved).

§ 8104. Status of turnpike revenue bonds, notes or other obligations.

(a) General rule.--The turnpike revenue bonds, notes or other obligations issued under the provisions of this chapter shall not be deemed to be a debt of the Commonwealth or a pledge of the faith and credit of the Commonwealth, but bonds, notes or other obligations shall be payable solely from the revenues of the commission, including tolls, or from funds as may be available to the commission for that purpose.

(b) Statement required.--All bonds, notes or other obligations shall contain a statement on their face that the Commonwealth is not obligated to pay the same or the interest thereon except from revenues of the commission, including tolls, or from funds as may be available to the commission for that purpose and that the faith and credit of the Commonwealth is not pledged to the payment of the principal or interest of the bonds, notes or other obligations.

(c) Pledge of Commonwealth prohibited.--The issuance of turnpike revenue bonds, notes or other obligations under the provisions of this chapter shall not directly or indirectly or contingently obligate the Commonwealth to levy or to pledge any form of taxation or to make any appropriation for their payment.

§ 8105. Commission.

(a) (Reserved).

(b) Vacancies and terms.--

(1) Notwithstanding any other law, any vacancy in the membership of the commission shall be filled by appointment of the Governor by and with the advice and consent of two-thirds of the members elected to the Senate.

(2) The appointed member shall serve for a term of four years. Upon the expiration of this term, the appointed member may continue to hold office for 90 days or until his successor shall be duly appointed and qualified, whichever is less. A member may not serve more than two terms.

(c) (Reserved).

(d) Secretary.--The provisions of subsection (a) shall not apply to the appointment of the secretary, who shall continue to be appointed and to serve as a member of the commission ex officio in accordance with law.

(e) Chairman.--A majority of the members of the commission shall elect a member of the commission to serve as chairman. Upon the appointment and qualification of any new member to serve on the commission, the office of chairman and the positions of all other officers created by law shall be deemed

vacant, and a new chairman and other officers shall be elected by a majority of the members of the commission.

(f) Actions by the commission.--Notwithstanding any other law, court decision, precedent or practice to the contrary, any and all actions by or on behalf of the commission shall be taken solely upon the approval of a majority of the members to the commission. The term "actions by or on behalf of the commission," as used in this subsection, means any action whatsoever of the commission, including, but not limited to, the hiring, appointment, removal, transfer, promotion or demotion of any officers and employees; the retention, use or remuneration of any advisors, counsel, auditors, architects, engineers or consultants; the initiation of any legal action; the making of any contracts, leases, agreements, bonds, notes or covenants; the approval of requisitions, purchase orders, investments and reinvestments; and the adoption, amendment, revision or rescission of any rules and regulations, orders or other directives. The chairman, vice chairman or any other officer or employee of the commission may take no action by or on behalf of the commission except as expressly authorized by a majority of the members of the commission.

(g) Compensation.--The annual salary of the Chairman of the Pennsylvania Turnpike Commission shall be $28,500, and the annual salary of the remaining members of the Pennsylvania Turnpike Commission shall be $26,000. These salaries shall be paid in equal installments every other week.
(Nov. 25, 2013, P.L.974, No.89, eff. imd.)

2013 Amendment. Act 89 amended subsec. (b)(2). See the preamble and section 43(3) of Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations and applicability.

§ 8106. Exercise of commission powers.

The exercise by the commission of the powers conferred by this chapter in the construction, operation and maintenance of the turnpikes and in effecting toll road conversions shall be deemed and held to be an essential governmental function of the Commonwealth.

§ 8107. Commission powers and duties.

(a) Powers and duties of commission.--The commission may:

(1) Maintain a principal office at a place designated by the commission.

(2) Contract and be contracted with in its own name.

(3) Sue and be sued in its own name, plead and be impleaded. Any civil action against the commission shall be brought only in the courts in which actions may be brought against the Commonwealth.

(4) Have an official seal.

(5) Make necessary rules and regulations for its own governance and in control of traffic.

(6) Acquire, hold, accept, own, use, hire, lease, exchange, operate and dispose of personal property, real property and interests in real property and make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter and employ engineering, traffic, architectural and construction experts and inspectors, attorneys and other employees as may, in its judgment, be necessary and fix their compensation.

(7) Provide grade separations at its own expense with respect to all public roads, State highways and interstate highways intersected by the turnpikes and to change and

adjust the lines and grades thereof so as to accommodate the same to the design for grade separation.

(i) The damages incurred in changing and adjusting the lines and grades of public roads, State highways and interstate highways shall be ascertained and paid by the commission in accordance with 26 Pa.C.S. (relating to eminent domain).

(ii) If the commission shall find it necessary to provide a grade separation or change the site of any portion of any interstate highway, State highway or public road, or vacate the same, the commission shall cause it to be reconstructed and restored at the commission's expense on the most favorable location and in as satisfactory a manner as the original road or vacate it as the case may be.

(iii) The method of acquiring the right-of-way and determining damages incurred in changing the location of or vacating the road, State highway or interstate highway shall be ascertained and paid for in accordance with 26 Pa.C.S.

(8) Petition the court of common pleas of the county in which any public road or part thereof is located and affected by the location of the turnpikes for the vacation, relocation or supply of the same or any part thereof with the same force and effect as is now given by existing laws to the inhabitants of any township or the county, and the proceedings upon petition, whether for the appointment of viewers or otherwise, shall be the same as provided by existing law for similar proceedings upon the petitions.

(9) Negotiate and enter into interest rate swaps and other interest rate hedges to assist the commission in managing interest cost and rate risk in connection with its debt.

(10) Provide for costs of the department.

(11) Have all of the powers and perform all the duties prescribed by the act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act.

(b) Maintenance to be paid out of tolls.--

(1) The turnpike extensions and improvements and toll-free roads converted to toll roads when completed and open to traffic shall be maintained and repaired by and under the control of the commission.

(2) All charges and costs for the maintenance and repairs actually expended by the commission shall be paid out of tolls.

(3) The turnpike, the turnpike extensions and improvements and the toll-free roads converted to toll roads shall also be policed and operated by a force of police, toll takers and other operating employees as the commission may in its discretion employ.

§ 8108. Expenses and bonding of commission members.

(a) Payment of expenses.--All compensation, salaries and expenses incurred in carrying out the provisions of this chapter shall be paid solely from funds provided under the authority of this chapter, and no liability or obligation shall be incurred under this chapter beyond the extent to which money shall have been provided under the authority of this chapter.

(b) No additional bond required.--The issuance of any turnpike revenue bonds, notes or other obligations under the provisions of this chapter shall not cause any member of the commission to be required to execute a bond that a member of the commission is not otherwise required to execute.

§ 8109. Acquisition of property rights by commission.

(a) Condemnation.--The commission may condemn, pursuant to 26 Pa.C.S. (relating to eminent domain), any lands, interests in lands, property rights, rights-of-way, franchises, easements and other property deemed necessary or convenient for the construction and efficient operation of the turnpikes and the toll road conversions or necessary in the restoration or relocation of public or private property damaged or destroyed.

(b) Purchase.--

(1) The commission may acquire by purchase, whenever it shall deem the purchase expedient, or otherwise accept if dedicated to it, any lands, interests in lands, property rights, rights-of-way, franchises, easements and other property deemed necessary or convenient for the construction and efficient operation of the turnpikes and toll road conversions or necessary in the restoration of public or private property damaged or destroyed, whether the property has been previously condemned or otherwise, upon terms and at a price as may be considered by the commission to be reasonable and can be agreed upon between the commission and the owner thereof and to take title thereto in the name of the commission.

(2) The net proceeds of the purchase price payable to a municipality or the department for any real property or interest therein obtained by the commission pursuant to this chapter, less the cost of retiring any bonded indebtedness on the property or interest, shall be used exclusively, in the case of a municipality, for road-related and bridge-related expenses and, in the case of the department, for highway and bridge construction, reconstruction and maintenance in the same engineering and maintenance district in which the property is located.

§ 8110. Procedural requirements of acquisition.

(a) Title.--Title to any property condemned by the commission shall be taken in the name of the commission.

(b) Entry.--

(1) In addition to any others powers set forth in this chapter, the commission and its authorized agents and employees may enter upon any lands, waters and premises in this Commonwealth for the purpose of making surveys, soundings, drillings and examinations, as it may deem necessary or convenient for the purpose of this chapter.

(2) The entry shall not be deemed a trespass, nor shall an entry for the purposes be deemed an entry under any condemnation proceedings which may be then pending.

(3) The commission shall make reimbursement for any actual damages resulting to the lands, waters and premises as a result of the activities.

(c) Restoration of property.--Any public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made for the property out of funds provided under the authority of this chapter.

(d) Powers of public bodies.--Notwithstanding any other provision of law to the contrary, a political subdivision or a public agency or commission of the Commonwealth may lease, lend, dedicate, grant, convey or otherwise transfer to the commission, upon its request, upon terms and conditions as the proper authorities of the political subdivision or public agency or commission of the Commonwealth deems reasonable and fair and without the necessity for any advertisement, order of court or

other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the commission, including public roads and other real property already devoted to public use.

§ 8111. Entry and possession of property condemned.

Whenever the commission has condemned any lands, rights, rights-of-way, easements and franchises, or interests therein, as provided in this chapter, the commission may proceed to obtain possession in the manner provided by 26 Pa.C.S. (relating to eminent domain).

§ 8112. Issuance of turnpike revenue bonds or other obligations.

(a) Authorization.--

(1) A bond must be authorized by resolution of the commission. The resolution may specify all of the following:

(i) Series.

(ii) Date of maturity not exceeding 40 years from date of issue.

(iii) Interest.

(iv) Denomination.

(v) Form, either coupon or fully registered without coupons.

(vi) Registration, exchangeability and interchangeability privileges.

(vii) Medium of payment and place of payment.

(viii) Terms of redemption not exceeding 105% of the principal amount of the bond.

(ix) Priorities in the revenues or receipts of the commission.

(2) A bond must be signed by or shall bear the facsimile signature of such officers as the commission determines. A bond may be issued and delivered notwithstanding that one or more of the signing officers or the treasurer has ceased to be an officer when the bond is actually delivered. A bond must be authenticated by an authenticating agent, a fiscal agent or a trustee, if required by the authorizing resolution.

(3) A bond may be sold at public or private sale for a price determined by the commission.

(4) Pending the preparation of a definitive bond, interim receipts or temporary bonds without coupons may be issued to the purchaser and may contain terms and conditions as the commission determines.

(b) Provisions.--A resolution authorizing a bond may contain provisions which shall be part of the contract with the bondholder as to the following:

(1) Pledging the full faith and credit of the commission, but not of the Commonwealth or any political subdivision for the bond or restricting the obligation of the commission to all or any of the revenue of the commission from all or any projects or properties.

(2) The payment of the costs of the department, the costs of the turnpikes and the toll road conversions, including the reconstruction of the converted roads as provided for in this chapter and the repayment to the Federal Treasury of any funds so required to be repaid pursuant to any special legislation passed by the Congress of the United States authorizing the conversion of toll-free roads to toll roads, the financing for insurance reserves and the duties of the commission with reference to these matters.

(3) Terms and provisions of the bond.

(4) Limitations on the purposes to which the proceeds of the bond or other financing may be applied.

(5) Rate of tolls and other charges for use of the facilities of or for the services rendered by the commission.

(6) The setting aside, regulation and disposition of reserves and sinking funds.

(7) Limitations on the issuance of additional bonds.

(8) Terms and provisions of any deed of trust or indenture securing the bond or under which any deed of trust or indenture may be issued.

(9) Other additional agreements with the holder of the bond.

(c) Deeds of trust.--The commission may enter into any deed of trust, indenture or other agreement with any bank or trust company or other person in the United States having power to enter into such an arrangement, including any Federal agency, as security for a bond and may assign and pledge all or any of the revenues or receipts of the commission under such deed, indenture or agreement. The deed of trust, indenture or other agreement may contain provisions as may be customary in such instruments or as the commission may authorize, including provisions as to the following:

(1) For the payment of the costs of the department, the costs of the turnpikes and the toll road conversions, including the reconstruction of the converted roads as provided for in this chapter and the repayment to the Federal Treasury of any funds so required to be repaid pursuant to any special legislation passed by the Congress of the United States authorizing the conversion of toll-free roads to toll roads, financing for insurance reserves and the duties of the commission with reference to these matters.

(2) Application of funds and the safeguarding of funds on hand or on deposit.

(3) Rights and remedies of trustees and bondholders, including restrictions upon the individual right of action of a bondholder.

(4) Terms and provisions of the bond or the resolution authorizing the issuance of the bond.

(d) Negotiability.--A bond shall have all the qualities of negotiable instruments under 13 Pa.C.S. Div. 3 (relating to negotiable instruments).

§ 8113. Obligation proceeds restricted and lien created.

All money received from any bonds, notes or other obligations issued under this chapter shall be applied solely to the payment of the costs of the department, the costs of the turnpikes, the turnpike extensions and improvements and the toll road conversions, including the reconstruction of the converted roads as provided for in this chapter and the repayment to the Federal Treasury of any funds so required to be repaid pursuant to any special legislation passed by the Congress of the United States authorizing the conversion of toll-free roads to toll roads or to the appurtenant fund. There is created and granted a lien upon the money, until so applied, in favor of holders of the bonds, notes or other obligations or the trustee provided for in this chapter in respect of the bonds, notes or other obligations.

§ 8114. Trust indenture authorized.

(a) Security for bonds.--In the discretion of the commission, the bonds, notes or other obligations may be secured by a trust indenture by and between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company, within this Commonwealth. The

trust indenture may pledge or assign tolls and revenue to be received but shall not convey or mortgage the Pennsylvania Turnpike System, including the turnpikes and toll road conversions provided for by this chapter.

(b) Rights of bondholders.--Either the resolution providing for the issuance of the bonds, notes or other obligations or the trust indenture may contain provisions for protecting and enforcing the rights and remedies of the bondholders or holders of notes or other obligations as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the commission in relation to the acquisition of properties and the construction, maintenance, operation and repair and insurance of the turnpikes and the custody, safeguarding and application of all money. It shall be lawful for any bank or trust company incorporated under the laws of this Commonwealth to act as a depository of the proceeds of bonds, notes or other obligations or revenues and to furnish the indemnity bonds or to pledge the securities as may be required by the commission. The trust indenture may set forth the rights and remedies of the bondholders or holders of notes or other obligations and of the trustee and may restrict the individual right of action of bondholders or holders of notes or other obligations as is customary in trust indentures securing bonds, debentures of corporations, notes or other obligations. In addition to the foregoing, the trust indenture may contain other provisions as the commission may deem reasonable and proper for the security of bondholders or holders of notes or other obligations. All expenses incurred in carrying out the trust indenture may be treated as part of the cost of maintenance, operation and repair of the turnpikes and toll road conversions provided for by this chapter.

§ 8115. Commission and obligations tax exempt.

The accomplishment by the commission of the authorized purposes stated in this chapter being for the benefit of the people of this Commonwealth and for the improvement of their commerce and prosperity, in which accomplishment the commission will be performing essential governmental functions, the commission shall not be required to pay any taxes or assessments on any property acquired or used by it for the purposes provided in this chapter, and the bonds, notes or other obligations issued by the commission, their transfer and the income therefrom, including any profits made on the sale thereof, shall at all times be free from taxation within this Commonwealth.

§ 8116. Collection and disposition of tolls and other revenue.

(a) Establishment and changes in toll amounts.--Subject to the terms of any trust indenture entered into by the commission or any resolution authorizing the issuance of any bonds, notes or other obligations of the commission, the commission is authorized to fix and to revise tolls for the use of the Pennsylvania Turnpike System and the different parts or sections of the system, including the turnpike, the turnpike extensions and improvements and the toll road conversions authorized by this chapter. The commission is further authorized to charge and collect tolls; to contract with any person, partnership, association or corporation desiring the use of any part thereof, including the right-of-way adjoining the paved portion, for placing thereon telephone, telegraph, electric light or power lines, gas stations, garages, stores, hotels, restaurants and advertising signs or for any other purpose, except for service plazas in the right-of-way along Interstate 80 and for tracks for railroad or railway use; and to fix the terms, conditions, rents and rates of charges for use. Tolls shall be fixed and

adjusted as to provide funds at least sufficient with other revenues of the Pennsylvania Turnpike System, if any, to pay all of the following:

(1) The cost of the turnpikes. This paragraph includes the cost of constructing, reconstructing, widening, expanding, extending, maintaining, repairing and operating the Pennsylvania Turnpike System and the different parts and sections of the system.

(2) Any of the following:

(i) The commission's bonds, notes or other obligations and the interest on them.

(ii) Sinking fund requirements of the commission.

(iii) Other requirements provided for by any resolution authorizing the issuance of the bonds, notes or other obligations by the commission, or by any trust indenture to which the commission is a party, as they become due.

(3) Amounts due to the department under 75 Pa.C.S. Ch. 89 (relating to Pennsylvania Turnpike) and pursuant to the lease agreement under 75 Pa.C.S. § 8915.3 (relating to lease of Interstate 80; related agreements).

(4) The cost of repayment to the Federal Government of funds required to be repaid pursuant to Federal legislation authorizing the conversion of toll-free roads to toll roads.

(5) Any other amounts payable to the Commonwealth or to the department.

(b) Restrictions on toll revenue.--Tolls shall not be subject to supervision or regulation by any other State commission, board, bureau or agency. Subject to the terms of any presently existing trust indenture entered into by the commission and any presently existing resolution authorizing the issuance of any bonds, notes or other obligations of the commission, the tolls and all other revenue derived from the Pennsylvania Turnpike System shall be set aside and pledged as may be provided in any resolutions, trust indentures or any other agreements that the commission may hereafter adopt or hereafter enter into with respect to the issuance of bonds, notes or other obligations of the commission.

Cross References. Section 8116 is referred to in section 1380 of Title 75 (Vehicles).

§ 8117. Electronic toll collection.

(a) Liability of owner.--

(1) If an operator of a vehicle fails to pay the prescribed toll at any location where tolls are collected by means of electronic toll collection, the owner of the vehicle shall be liable to the commission for failure of the operator of the vehicle to comply with this section if the violation is evidenced by information obtained from a toll collection system.

(2) The registration plate number of the vehicle as recorded by a toll collection system shall establish an inference that the owner of the vehicle was then operating the vehicle. The inference shall be overcome if the owner provides a written statement indicating the following:

(i) that the owner was not operating the vehicle at the time of travel; and

(ii) (Deleted by amendment).

(iii) (Deleted by amendment).

(iv) the name and residence address of the operator of the vehicle at the time of travel.

(3) Failure to send the required information within 30 days of the original invoice date shall result in the owner being liable for the total amount due.

(4) If the inference is overcome, the operator of the vehicle at the time of travel may be held liable under this section for failure to pay the prescribed toll in the same manner as if the operator were the owner of the vehicle.

(b) Imposition of liability.--Liability under this section shall be imposed upon an owner for failure to pay the prescribed toll charges assessed under this section or the regulations of the commission occurring within the territorial limits of this Commonwealth. Based on evidence obtained by a toll collection system, the following shall apply:

(1) The commission or an authorized agent or employee must prepare and mail an invoice assessing the toll charges incurred as follows:

(i) The invoice must be sent by first class mail to each person alleged to be liable as an owner.

(ii) The invoice must be mailed at the address shown on the vehicle registration or at the address of the operator, as applicable. The invoice must be mailed no later than 60 days after:

(A) the date of travel; or

(B) the date the inference is overcome under subsection (a)(2).

(iii) Personal service is not required.

(iv) The invoice must contain all of the following:

(A) Information advising the person charged of the manner and time in which the toll charges in the invoice may be contested.

(B) A warning advising the person charged that failure to contest the invoice in the manner and time provided shall be deemed an admission of liability for the total amount due.

(1.1) A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the mailing of the invoice.

(1.2) If mail, other than unclaimed mail, is returned undelivered, the commission may obtain address information from sources, such as the United States Postal Service, debt collection services, reviews of telephone directories or related skip-tracing practices, to locate an alternative address for the vehicle owner or the address of the operator, as applicable.

(2) If an owner of a vehicle or an owner that is a lessor of a vehicle receives an invoice under this section for any time period during which the vehicle was reported to a police department as having been stolen, it shall be a defense to the allegation of liability that the vehicle had been reported to the police as having been stolen prior to the time the travel occurred and that the vehicle had not been recovered by the time of the travel. For purposes of asserting the defense under this paragraph, it shall be sufficient that a certified copy of the police report on the stolen vehicle be sent by first class mail to the commission within 30 days after receiving the original invoice. Failure to send the information within the time limit under this paragraph shall render the owner or lessor liable for the tolls and fees assessed in the invoice as prescribed by this section.

(3) An owner that is a lessor of a vehicle as to which an invoice was issued under paragraph (1) shall not be liable

for tolls assessed in the invoice if the owner sends to the commission a copy of the rental, lease or other contract document covering the vehicle on the date of travel, with the name and address of the lessee clearly legible to the commission, within 30 days after receiving the original invoice. Failure to send the information within the time limit under this paragraph shall render the lessor liable for the tolls and fees assessed in the invoice as prescribed by this section. If the lessor complies with the provisions of this section, the lessee of the vehicle on the date of travel shall be deemed to be the owner of the vehicle for purposes of this section and shall be subject to liability for the tolls and fees assessed in the invoice under this section.

(4) A certified report or a facsimile report of an authorized agent or employee of the commission reporting a violation of this section or regulations of the commission based upon the recorded information obtained from a toll collection system shall be prima facie evidence of the facts contained in the report and shall be admissible as an official record kept in the ordinary course of business in any proceeding charging a violation of this section or the toll collection regulations of the commission.

(5) Notwithstanding any other provision of law, videotapes, photographs, microphotographs, other recorded images, written records, reports or facsimiles prepared pursuant to this section shall be for the exclusive use of the commission, its authorized agents, its employees and law enforcement officials for the purpose of discharging duties under this section and the regulations of the commission. The information shall not be deemed a public record under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law. The information shall not be discoverable by court order or otherwise; nor shall it be offered in evidence in any action or proceeding which is not directly related to a violation of this section, the regulations of the commission or indemnification for liability imposed pursuant to this section. The restrictions set forth in this paragraph:

(i) shall not be deemed to preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials if the information is reasonably described and is requested solely in connection with a criminal law enforcement action;

(ii) shall not be deemed to preclude the exchange of the information between any entities with jurisdiction over or which operate a toll collection system in this Commonwealth or any other jurisdiction; and

(iii) shall not be deemed to prohibit the use of information exclusively for the purpose of billing electronic toll collection accounts, deducting toll charges from accounts, enforcing toll collection laws and related regulations or enforcing the provisions of accounts.

(6) An imposition of liability under this section must be based upon a preponderance of evidence.

(7) An imposition of liability pursuant to this section shall not be deemed a conviction of an owner and shall not be made part of the motor vehicle operating record of the person upon whom the liability is imposed, nor shall it be

considered in the provision of motor vehicle insurance coverage.

(8) An owner that admits, is found liable or fails to pay the invoice resulting in a violation of this section shall be civilly liable to the commission for all of the following:

(i) Either:

(A) the amount of the toll evaded or attempted to be evaded if the amount can be determined; or

(B) the maximum toll from the farthest point of entry on the Pennsylvania Turnpike to the actual point of exit if the amount of the toll evaded or attempted to be evaded cannot be determined.

(ii) A reasonable administrative fee not to exceed $35 per notification.

(9) Nothing in this section shall be construed to limit the liability of the operator of a vehicle for a violation of this section or of the regulations of the commission.

(c) Placement of electronic toll collection device.--An electronic toll collection device which is affixed to the front windshield of a vehicle in accordance with the regulations of the commission shall not be deemed to constitute a violation of 75 Pa.C.S. § 4524 (relating to windshield obstructions and wipers).

(d) Privacy of electronic toll collection information.--

(1) Except as set forth under paragraph (2), notwithstanding any other provision of law, all of the following apply to information kept by the commission, its authorized agents or its employees which is related to an account for electronic toll collection and any information collected by a toll collection system:

(i) The information shall be for the exclusive use of the commission, its authorized agents, its employees and law enforcement officials for the purpose of discharging their duties pursuant to this section and the regulations of the commission. This subparagraph includes names, addresses, account numbers, account balances, personal financial information, vehicle movement records and other information compiled by a toll collection system.

(ii) The information shall not be deemed a public record under the Right-to-Know Law, nor shall it be discoverable by court order or otherwise or be offered in evidence in any action or proceeding which is not directly related to the discharge of duties under this section, the regulations of the commission or a violation of the terms in an account.

(2) Paragraph (1) shall not be deemed to do any of the following:

(i) Preclude a court of competent jurisdiction from issuing an order directing that the information be provided to law enforcement officials if the information is reasonably described and is requested solely in connection with a criminal law enforcement action.

(ii) Preclude the exchange of the information between any entities with jurisdiction over or which operate a toll collection system in this Commonwealth or any other jurisdiction.

(iii) Prohibit the use of the information exclusively for the purpose of billing electronic toll collection accounts, deducting toll charges from an

account, enforcing toll collection laws and related regulations or enforcing the provisions of an account.

(d.1) Notice for posting video toll or flat video toll to customer account.--

(1) The commission shall indicate on an account statement if a video toll has been posted to the customer's account, including the date and the dollar amount of the video toll.

(2) The commission shall post notice on its publicly accessible Internet website indicating an account may be charged a flat video toll if the commission is unable to match a license plate image.

(3) The commission shall notify the account upon the posting of the first flat video toll to the account in a calendar year in accordance with the preferences indicated in the account. The notification shall include:

(i) Information on proper placement of the electronic toll collection device.

(ii) Information regarding replacement of the electronic toll collection device.

(iii) Notice that failure to respond may result in additional flat video tolls and administrative fees posted to the account.

(iv) Other information as determined by the commission.

(4) The commission shall provide for an appeal process.

(e) Definition.--As used in this section, the term "owner" means any person, corporation, firm, partnership, agency, association, organization or lessor that, at the time a vehicle is operated in violation of this section or regulations of the commission:

(1) is the beneficial or equitable owner of the vehicle;

(2) has title to the vehicle; or

(3) is the registrant or coregistrant of the vehicle registered with the department or a comparable agency of another jurisdiction or uses the vehicle in its vehicle renting or leasing business. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person.

(Nov. 3, 2022, P.L.1734, No.112, eff. 60 days)

2022 Amendment. Act 112 amended subsecs. (a), (b) and (d) and added subsec. (d.1).

Cross References. Section 8117 is referred to in sections 8102, 9110 of this title; sections 1332, 1380 of Title 75 (Vehicles).

§ 8118. Refunding bonds.

The commission is authorized to provide, by resolution, for the issuance of turnpike revenue refunding bonds for the purpose of refunding issued and outstanding turnpike revenue bonds, notes or other obligations. Applicable provisions of this chapter govern all of the following:

(1) Issuance of the turnpike revenue refunding bonds.

(2) Maturities and other details of the refunding bonds.

(3) Rights of the holders of the bonds.

(4) Duties of the Commonwealth and of the commission in respect to the bonds.

§ 8119. Rights of obligation holders and trustees.

(a) Scope.--This section applies to all of the following:

(1) A holder of:

(i) a bond, note or other obligation issued under this chapter; or

(ii) a coupon attached to the bond, note or other obligation.

(2) The trustee under an applicable trust indenture.

(b) Enforcement.--Subject to subsection (c), a person referred to in subsection (a) may, by an action at law or in equity, do all of the following:

(1) Protect and enforce rights granted under this chapter or under the resolution or trust indenture.

(2) Enforce and compel performance of all duties required by this chapter or by the resolution or trust indenture to be performed by the commission or an officer of the commission. This paragraph includes fixing, charging and collecting of tolls for the use of the turnpikes.

(c) Restriction.--Rights under this chapter may be restricted by resolution passed before the issuance of the bond, note or other obligation or by the trust indenture.

§ 8120. Authority granted to secretary.

(a) Agreement with Federal Government.--

(1) The secretary is authorized to enter into an agreement with the United States Department of Transportation, the Federal Highway Administration and any other Federal agency to obtain Federal funds for projects for resurfacing, restoring and rehabilitating toll roads in this Commonwealth. The commission is authorized to use Federal funds which may be available for toll roads only upon approval of the secretary and only under the authority granted under this section.

(2) (Reserved).

(b) Approval by department.--A copy of each contract and agreement relating to the construction of the turnpikes and connecting tunnels, bridges, slip interchanges and slip ramps shall be provided to the department for review and comment prior to execution of this contract or agreement.

§ 8121. Annual hearing and reports.

(a) Duty to testify.--Upon request, at least one commission member shall testify at a public hearing before the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives each year to present information on turnpike operations and coordination with other State agencies.

(b) Duty to report.--

(1) No later than October 1, 2022, and each October 1 thereafter, the commission shall submit a report to the General Assembly summarizing toll revenues that are collected and uncollected, and projected to be collected and uncollected, including the reasons that the toll revenues are uncollected, during the prior fiscal year.

(2) The report shall be submitted to the following:

(i) The chairperson and minority chairperson of the Transportation Committee of the Senate.

(ii) The chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(3) The report shall include the following information:

(i) The dollar amount of toll revenues collected and projected to be collected during the prior fiscal year.

(ii) The dollar amount and percentage of toll revenues collected and projected to be collected during the prior fiscal year by collection method.

(iii) The dollar amount and percentage of tolls uncollected and projected to be uncollected during the prior fiscal year.

(iv) A breakdown of uncollected tolls detailing the reason for failure to collect, including an unreadable or missing license plate, an undeliverable address or an unpaid invoice.

(c) Feasibility study.--

(1) The commission shall conduct a feasibility study to assess alternative electronic toll collection payment options. The study shall include:

(i) A review of third-party organizations that process accounts and transactions for toll collection through electronic funds transfer.

(ii) A review of electronic push notification alerts with the goal of posting a notification within 24 hours of the transaction posting to a customer's account or as soon as practicable if a valid account is not recognized at the time of the transaction.

(iii) Review of the commission's existing customer payment application.

(iv) Recommendations from the commission.

(2) The study shall be completed within one year of the effective date of this subsection and copies shall be submitted to the following:

(i) The chairperson and minority chairperson of the Transportation Committee of the Senate.

(ii) The chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(Nov. 25, 2013, P.L.974, No.89, eff. 60 days; Nov. 3, 2022, P.L.1734, No.112, eff. 60 days)

2013 Amendment. See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 8122. (Reserved).

§ 8123. Construction of chapter.

This chapter shall be regarded as supplemental and additional to powers conferred by other statutes and shall not be regarded as in derogation of any powers now existing and shall be liberally construed to effect its purposes.

CHAPTER 82
TURNPIKE COMMISSION STANDARDS OF CONDUCT

Sec.

8201. Scope of chapter.
8202. Definitions.
8203. Qualifications, restrictions and duties of commission members and employees.
8204. Code of conduct.
8205. Applicability of other statutes.

Enactment. Chapter 82 was added July 18, 2007 (P.L.169, No.44), effective immediately and retroactive to July 1, 2007.

§ 8201. Scope of chapter.

This chapter shall apply to the Pennsylvania Turnpike Commission formed or maintained under authority of the act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act, and the former act of September 30,

1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, or any successor entity.

References in Text. The act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act, referred to in this section, was repealed by the act of May 21, 1943 (P.L.349, No.162).

§ 8202. Definitions.

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

"Business." Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust or any legal entity organized for profit.

"Commission." The Pennsylvania Turnpike Commission.

"Executive-level employee." The Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Counsel or any other senior management employee with discretionary powers which may affect the outcome of a Pennsylvania Turnpike Commission action or decision or who functions in press or public relations, legislative liaison or development of executive policy.

"Facility." Rest areas, service plazas, restaurants, fueling stations, traffic advisory systems, call boxes or other services provided by the commission to persons using toll roads or highways operated by the commission.

"Immediate family." A spouse, parent, brother, sister or child.

"Member." A commissioner appointed to the Pennsylvania Turnpike Commission, including the Secretary of Transportation, and any successor entity thereto.

"Ownership interest." Owning or holding, or being deemed to hold, debt or equity securities or other ownership interest or profit interest.

"Party officer." A member of a national committee of a political party; a chairman, vice chairman, secretary, treasurer or counsel of a State committee or member of the executive committee of a State committee of a political party; or a county chairman, vice chairman, counsel, secretary or treasurer of a county committee or a city chairman, vice chairman, counsel, secretary or treasurer of a city committee of a political party.

"Pennsylvania Turnpike Commission." An entity formed or maintained under authority of the act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act, and the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, or any successor entity.

"Public official." Any official elected to a Federal, State or county office.

References in Text. The act of May 21, 1937 (P.L.774, No.211), referred to as the Pennsylvania Turnpike Commission Act, referred to in the def. of "Pennsylvania Turnpike Commission," was repealed by the act of May 21, 1943 (P.L.349, No.162).

The act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, referred to in the def. of "Pennsylvania Turnpike Commission," was repealed by the act of July 18, 2007 (P.L.169, No.44).

§ 8203. Qualifications, restrictions and duties of commission members and employees.

(a) General rule.--The following qualifications and restrictions shall apply to members and executive-level employees:

(1) A member shall be at least 25 years of age and shall have been a resident of this Commonwealth for a period of at least one year immediately preceding appointment. Each member shall continue to remain a resident of this Commonwealth during the term of membership on the commission.

(2) Except for the Secretary of Transportation, no member or executive-level employee shall be a public official or party officer in this Commonwealth.

(3) (i) No member or executive-level employee shall be paid or receive any fee or other compensation other than salary and expenses provided by law for any activity directly pertaining to the duties of the commission.

(ii) Nothing in this chapter shall be construed to prohibit a member or executive-level employee from engaging in any employment or vocation that is not incompatible with service as a member or executive-level employee.

(4) (i) At the time of appointment and annually thereafter, each member shall disclose the existence of all ownership interests in any facility or business with which the commission has contracted for roadway construction or maintenance or services of any kind.

(ii) The disclosure statement shall be filed with the chief executive officer of the commission and shall be open to inspection by the public at the office of the commission during normal business hours of the commission during the tenure of the member.

(b) Fiduciary relationship.--Each member and executive-level employee shall serve as a fiduciary of the commission.

§ 8204. Code of conduct.

(a) Contents.--The commission shall adopt a comprehensive code of conduct within 90 days of the effective date of this section. The code of conduct shall supplement all other requirements under this chapter and shall provide guidelines applicable to members and executive-level employees and the immediate families of the members and executive-level employees to enable them to avoid any perceived or actual conflict of interest and to promote public confidence in the integrity and impartiality of the commission. At a minimum, the code of conduct adopted under this section shall provide that:

(1) No member or executive-level employee may accept any discount, gift, gratuity, compensation, travel, lodging or other thing of value, in excess of the limits under 65 Pa.C.S. § 1105(b)(6) and (7) (relating to statement of financial interests) directly or indirectly, from any facility or business with which the commission has a contractual relationship.

(2) Members and executive-level employees shall refrain from any financial or business dealing which would affect the member's objectivity, impartiality or independence of judgment.

(3) (i) No member or executive-level employee may use the promise of business with the commission to solicit funds for any charitable, educational, religious, health, fraternal, civic or other nonprofit entity.

(ii) A member or executive-level employee may serve as an officer, employee or member of the governing body

of a nonprofit entity and may attend, make personal contributions to and plan or preside over the entity's fundraising events.

(iii) A member or executive-level employee may permit his name to appear on the letterhead used for fundraising events if the letterhead contains only the member's name and position with the nonprofit entity.

(4) No member or executive-level employee nor the immediate family of such person shall participate in any deliberations or vote of the commission in which that person may have a direct or indirect pecuniary interest.

(5) (i) A member shall abstain from any vote or decision which authorizes a contract in which the member has any pecuniary interest. The member shall disclose the interest in a public meeting prior to the vote or decision.

(ii) Failure to comply with this paragraph shall make the contract null and void.

(6) No former member or executive-level employee may receive any pecuniary benefit from a contract between the commission and the employer of the former member or executive-level employee for a period of one year from the termination of employment or service with the commission. No former member or executive-level employee may solicit any contracts with the commission for a period of one year from the termination of employment or service with the commission.

(7) A member of the commission who has been convicted during his term in any domestic or foreign jurisdiction of a felony shall, upon conviction, be automatically removed from the commission and shall be ineligible to become a commission member in the future.

(8) No member may solicit, request, suggest or recommend the employment, by either the commission or a contractor with the commission, of any individual related within the first degree of consanguinity to the member as set forth in 23 Pa.C.S. § 1304(e) (relating to restrictions on issuance of license) or the spouse of the individual.

(b) Audit.--

(1) At least once every two years, the Department of the Auditor General shall review the performance, procedures, operating budget, capital budget and debt of the commission and shall audit the accounts of the commission.

(2) The Auditor General shall be entitled to go beyond mere financial statements and shall be entitled to examine original source documents at such time as is believed necessary or may otherwise examine original documents on a random basis designed to ensure the integrity of the audit.

(3) The provisions of section 706(d) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, shall apply to any audit conducted under this subsection.

(Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

2013 Amendment. Act 89 amended subsec. (b)(1). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 8205. Applicability of other statutes.

(a) General rule.--Notwithstanding any other provision of law, the following acts shall apply to the commission under this chapter:

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

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

(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).

(b) Status of commission.--The commission shall be considered an "agency" for the purposes of the following:

(1) The act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

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

References in Text. The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in subsec. (a)(1), was repealed by the act of Feb. 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

CHAPTER 83
SCENIC HIGHWAYS

Sec.

8301. Designation of certain State routes as scenic byways.
8302. Designation of Exton Bypass as scenic byway.
8303. Designation of the Governor Robert P. Casey Highway as scenic byway.
8304. Designation of State Route 120 as scenic byway.
8305. Designation of State Route 6 as scenic byway.
8306. Designation of State Route 92 in Susquehanna County as scenic byway.
8307. Designation of the West Branch Susquehanna River Byway in Clearfield County, a portion of U.S. 219, U.S. 322, State Route 969, State Route 879, State Route 153, State Route 453, State Route 1001, State Route 729, State Route 4005, the Greenville Pike and Bilger's Rocks Road in Clearfield County, a total of 64 miles, as a scenic byway.
8308. Designation of Crawford Lakelands Byway as scenic byway.
8309. Designation of U.S. Route 202 Parkway as scenic byway.

Enactment. Chapter 83 was added July 2, 1993 (P.L.408, No.58), effective in 60 days.

Cross References. Chapter 83 is referred to in section 6105.2 of Title 75 (Vehicles).

§ 8301. Designation of certain State routes as scenic byways.

(a) General rule.--Because of their outstanding scenic, historic, natural, recreational and archeological characteristics and qualities and because of opportunities for economic development and tourism and for conservation of the outstanding qualities, the following are designated as scenic byways:

(1) State Route 476, commonly known as the Blue Route.

(2) State Route 711 from the Conemaugh River to Jones Mills continuing along Routes 711/381 south to Normalville and along Route 381 to the State line of West Virginia, commonly referred to as the Laurel Highlands Scenic Byway.

(3) State Route 40 from the border of Pennsylvania and Maryland to the border of Pennsylvania and West Virginia, commonly referred to as the National Road.

(b) Effect of designation.--No outdoor advertising device, as defined in section 3 of the act of December 15, 1971

(P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected:

(1) within 660 feet of the nearest edge of the right-of-way; or

(2) more than 660 feet from the nearest edge of the right-of-way, outside of urban areas, if the sign is visible from the main-traveled way of the scenic byway and the purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(i) the official signs and notices which are required or authorized by law and which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(ii) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(iii) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control; and

(iv) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131.

(July 11, 1996, P.L.660, No.115, eff. 60 days)

1996 Amendment. Act 115 amended the section heading and subsec. (a), retroactive to January 1, 1996.

§ 8302. Designation of Exton Bypass as scenic byway.

(a) General rule.--Because of its outstanding scenic, historic, recreational, cultural and archeological characteristics, the middle portion of U.S. 30 (Bypass), commonly known as the Exton Bypass, is designated as a scenic byway.

(b) Effect of designation.--No outdoor advertising device, as defined in section 3 of the act of December 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected if the sign is visible from the main-traveled way of the scenic byway and the purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(1) the official signs and notices which are required or authorized by law and which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(2) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(3) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control; and

(4) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national standards promulgated

by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131.

(July 2, 1996, P.L.497, No.82, eff. imd.)

1996 Amendment. Act 82 added section 8302, retroactive to December 22, 1995.

§ 8303. Designation of the Governor Robert P. Casey Highway as scenic byway.

(a) General rule.--Because of its outstanding scenic, historic, recreational, cultural and archeological characteristics, the portion of U.S. Route 6 between the intersection of U.S. Route 6 with Route 81 in Dunmore Borough, Lackawanna County, and the intersection of Business Route 6 in Carbondale Township, Lackawanna County, totaling 15.53 miles, commonly known as the Governor Robert P. Casey Highway, is designated as a scenic byway.

(b) Effect of designation.--No outdoor advertising device, as defined in section 3 of the act of December 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected if the sign is visible from the main-traveled way of the scenic byway and the purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(1) the official signs and notices which are required or authorized by law and which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(2) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(3) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control; and

(4) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131.

(Nov. 6, 2003, P.L.203, No.33, eff. 60 days)

2003 Amendment. Act 33 added section 8303.

§ 8304. Designation of State Route 120 as scenic byway.

(a) General rule.--Because of its outstanding scenic, historic, natural, recreational and archeological characteristics and qualities and because of opportunities for economic development and tourism and for conservation of the outstanding qualities along the road, State Route 120 in Clinton County from Lock Haven to the junction of U.S. Route 219 in Elk County is designated as a scenic byway.

(b) Effect of designation.--No outdoor advertising device, as defined in section 3 of the act of December 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected:

(1) within 660 feet of the nearest edge of the right-of-way; or

(2) more than 660 feet from the nearest edge of the right-of-way, outside of urban areas, if the sign is visible from the main-traveled way of the scenic byway and the

purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(i) the official signs and notices which are required or authorized by law and which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(ii) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(iii) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control;

(iv) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131; and

(v) signs approved by the department designating the route as a scenic byway installed in accordance with department requirements.

(c) Public use maps.--All public use maps produced by the department for travel, tourism and business interests shall give special identification of routes designated as scenic byways and briefly summarize that the General Assembly established the designation because of the outstanding scenic, historic, natural, recreational and archeological characteristics and outstanding qualities and opportunities for economic development, tourism and conservation of the sights along the route.

(Nov. 6, 2003, P.L.203, No.33, eff. 60 days)

2003 Amendment. Act 33 added section 8304.

§ 8305. Designation of State Route 6 as scenic byway.

(a) General rule.--Because designation of the three miles between the interchange with Business Route 6 on the west side of Tunkhannock Borough to the Business Route 6 interchange in Tunkhannock Township on the east side of the borough will preserve magnificent views and will educate residents and future residents of the importance of promoting the cultural and archeological area around Tunkhannock Borough, State Route 6 in Wyoming County from the interchange with Business Route 6 on the west side of Tunkhannock Borough to the Business Route 6 interchange in Tunkhannock Township on the east side of the borough is designated as a scenic byway.

(b) Effect of designation.--No outdoor advertising device as defined in section 3 of the act of December 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected:

(1) within 660 feet of the nearest edge of the right-of-way; or

(2) more than 660 feet from the nearest edge of the right-of-way, outside of urban areas, if the sign is visible from the main-traveled way of the scenic byway and the purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(i) the official signs and notices which are required or authorized by law and which conform to the national standards promulgated by the Secretary of

Transportation of the United States pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(ii) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(iii) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control;

(iv) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131; and

(v) signs approved by the department designating the route as a scenic byway installed in accordance with department requirements.

(July 5, 2005, P.L.94, No.35, eff. 60 days)

2005 Amendment. Act 35 added section 8305.

§ 8306. Designation of State Route 92 in Susquehanna County as scenic byway.

(a) General rule.--Because of its outstanding scenic, historic, natural, recreational and archeological characteristics and qualities and because of opportunities for economic development and tourism and for conservation of the outstanding qualities along the road, State Route 92 in Susquehanna County from Lenox Township Segment No. 0130/0904 continuing to Jackson Township border Segment No. 0460/2408, and further continuing from the Susquehanna Borough Segment No. 0510/0747 and continuing to Oakland Borough Segment No. 0540/1702, is hereby designated as a scenic byway.

(b) Effect of designation.--No outdoor advertising device as defined in section 3 of the act of December 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected:

(1) within 660 feet of the nearest edge of the right-of-way; or

(2) more than 660 feet from the nearest edge of the right-of-way, outside of urban areas, if the sign is visible from the main-traveled way of the scenic byway and the purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(i) the official signs and notices which are required or authorized by law and which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(ii) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(iii) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control;

(iv) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national

standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131; and

(v) signs approved by the department designating the route as a scenic byway installed in accordance with department requirements.

(c) Public use maps.--All public use maps produced by the department for travel, tourism and business interests shall give special identification of this route and briefly summarize that the General Assembly established the designation because of the outstanding scenic, historic, natural, recreational and archeological characteristics and outstanding qualities and opportunities for economic development, tourism and conservation of the sights along the route.

(July 5, 2005, P.L.94, No.35, eff. 60 days)

2005 Amendment. Act 35 added section 8306.

§ 8307. Designation of the West Branch Susquehanna River Byway in Clearfield County, a portion of U.S. 219, U.S. 322, State Route 969, State Route 879, State Route 153, State Route 453, State Route 1001, State Route 729, State Route 4005, the Greenville Pike and Bilger's Rocks Road in Clearfield County, a total of 64 miles, as a scenic byway.

(a) General rule.--Because of its outstanding scenic, historic, recreational, cultural and archeological characteristics, the following is designated as a scenic byway:

(1) U.S. 219 in Bell Township and continuing on U.S. 219 in Mahaffey Borough and Greenwood Township, Segment No. 270/450, Lumber City Highway to State Route 969, Lumber City Highway, Segment No. 010/220, State Route 453 in Greenwood Township to Penn Township to Lumber City Borough to Pike Township to Curwensville Borough to State Route 453, Segment No. 410/420, State Route 879, Curwensville Borough, to State Route 879 to Segment No. 120/250, State Route 1001, Curwensville Borough to Pike Township to Lawrence Township to State Route 1001, Segment No. 080/090, State Route 153, Lawrence Township to Clearfield Borough to State Route 153, Segment No. 370/400, U.S. 322, Clearfield Borough, to U.S. 322, Segment No. 440/414, State Route 1001, Clearfield Borough to Lawrence Township to State Route 1001, Segment No. 112/160, State Route 879, Lawrence Township, to State Route 879, Segment No. 330/800, Lawrence Township to Goshen Township to Girard Township to Convington Township to Karthaus Township to county line.

(2) Bigler's Rock Loop, State Route 729, Segment No. 420/490, to U.S. 219, Lumber City Borough to Penn Township to Grampian Borough to U.S. 219, Segment No. 540/600, to Bilger's Rocks Road T-203, Grampian Borough to Bloom Township and Bilger's Rocks Road T-203 to State Route 4005, Bloom Township to Pike Township to State Route 4005, Segment No. 040/010, to State Route 879, Pike Township and State Route 879, Segment No. 90/120, to State Route 453, Pike Township to Curwensville Borough.

(3) Penfield Loop, U.S. 322, Segment No. 414/301, to State Route 153, Clearfield Borough to Lawrence Township to Pine Township to State Route 153, Segment No. 410/470, to Interstate 80 to Pine Township.

(a.1) Exception.--Segment No. 290/360 of State Route 879 shall not be included as a part of the scenic byway designated under subsection (a).

(b) Effect of designation.--No outdoor advertising device, as defined in section 3 of the act of December 15, 1971

(P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected if the sign is visible from the main-traveled way of the scenic byway and the purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(1) the official signs and notices which are required or authorized by law and which conform to the national standards promulgated by the United States Secretary of Transportation pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(2) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(3) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control; and

(4) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national standards promulgated by the United States Secretary of Transportation pursuant to 23 U.S.C. § 131.

(July 7, 2011, P.L.281, No.63, eff. imd.)

2011 Amendment. Act 63 added section 8307.

§ 8308. Designation of Crawford Lakelands Byway as scenic byway.

(a) General rule.--Because of its outstanding scenic, historic, recreational, cultural, natural and archeological characteristics and qualities and because of opportunities for economic development and tourism and for conservation of the outstanding qualities along the road, the portion of U.S. Route 6, from the Ohio/Pennsylvania State Line Segment No. 0010/0000 to State Route 18 Segment No. 0350/2046 through Sadsbury Township, Conneaut Lake Borough, Summit Township, Pine Township, Linesville Borough and Conneaut Township continuing on State Route 18 from U.S. 6/322 Segment No. 0110/0000 to State Route 618 Segment No. 0190/0078 in Sadsbury Township and Summit Township continuing on State Route 618 from U.S. 6 Segment 0010/0000 to State Route 18 Segment No. 0080/2648 to State Route 285 from the Ohio/Pennsylvania State Line Segment No. 0010/0000 to U.S. 6/322 Segment No. 0230/2317 in Conneaut Lake Borough, Sadsbury Township and North Shenango Township on to State Route 3011 from State Route 285 Segment No. 0110/0000 to U.S. 6 Segment No. 0200/1906 in North Shenango Township, Pine Township and Linesville Borough, totaling 37 miles in Crawford County, is hereby designated as a scenic byway to be known as the Crawford Lakelands Byway.

(b) Effect of designation.--No outdoor advertising device, as defined in section 3 of the act of December 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected:

(1) within 660 feet of the nearest edge of the right-of-way; or

(2) more than 660 feet from the nearest edge of the right-of-way, outside of urban areas, if the sign is visible from the main-traveled way of the scenic byway and the purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(i) the official signs and notices which are required or authorized by law and which conform to the

national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(ii) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(iii) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control;

(iv) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131; and

(v) signs approved by the department designating the route as a scenic byway installed in accordance with department requirements.

(c) Public use maps.--All public use maps produced by the department for travel, tourism and business interests shall give special identification of this route and briefly summarize that the General Assembly established the designation because of the outstanding scenic, historic, natural, recreational and archeological characteristics and outstanding qualities and opportunities for economic development, tourism and conservation of the sights along the route.

(July 7, 2011, P.L.296, No.68, eff. 60 days)

2011 Amendment. Act 68 added section 8308.

§ 8309. Designation of U.S. Route 202 Parkway as scenic byway.

(a) General rule.--Because of its outstanding scenic, historic, recreational, cultural, natural and archeological characteristics, the 8.6 mile U.S. Route 202 Parkway between State Route 63 (Welsh Road) in Montgomery Township and State Route 611 in Doylestown Township is hereby designated as a scenic byway.

(b) Effect of designation.--No outdoor advertising device, as defined in section 3 of the act of December 15, 1971 (P.L.596, No.160), known as the Outdoor Advertising Control Act of 1971, may be erected:

(1) within 660 feet of the nearest edge of the right-of-way; or

(2) more than 660 feet from the nearest edge of the right-of-way, outside of urban areas, if the sign is visible from the main-traveled way of the scenic byway and the purpose of the sign is that its message be read from the main-traveled way of the scenic byway, except:

(i) the official signs and notices which are required or authorized by law and which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131 (relating to control of outdoor advertising);

(ii) outdoor advertising devices advertising the sale or lease of the real property upon which they are located;

(iii) outdoor advertising devices advertising activities conducted on the property on which they are located, including devices which display a message that may be changed at reasonable intervals by electronic process or remote control;

(iv) directional signs, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions and other points of interest to the traveling public which conform to the national standards promulgated by the Secretary of Transportation of the United States pursuant to 23 U.S.C. § 131; and

(v) signs approved by the department designating the route as a scenic byway installed in accordance with department requirements.

(July 5, 2012, P.L.1140, No.140, eff. 60 days)

2012 Amendment. Act 140 added section 8309. See section 2 of Act 140 in the appendix to this title for special provisions relating to designation of bridge.

CHAPTER 84
MOTOR CARRIERS

Sec.
8401. Definitions.
8402. Indemnity provisions void.

Enactment. Chapter 84 was added October 19, 2010, P.L.827, No.83, effective in 60 days.

§ 8401. Definitions.

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

"Common carrier by motor vehicle." As defined in 66 Pa.C.S. § 102 (relating to definitions).

"Contract carrier by motor vehicle." As defined in 66 Pa.C.S. § 2501(b) (relating to definitions).

"Indemnity provision." A provision which:

(1) is contained in, is collateral to or affects a motor carrier transportation contract; and

(2) indemnifies or attempts to indemnify the promisee against liability for loss or damage resulting from intentional, reckless or negligent acts or omissions.

"Motor carrier." As defined in 66 Pa.C.S. § 102 (relating to definitions).

"Motor carrier transportation contract." Any contract, agreement or understanding covering any of the following:

(1) Transportation of property for compensation by a motor carrier.

(2) Entrance on property by a motor carrier for the purpose of loading, unloading or transporting property for compensation.

(3) Service incidental to activity described in paragraph (1) or (2). This paragraph includes storage of property.

The term does not include the Uniform Intermodal Interchange and Facilities Access Agreement administered by the Intermodal Association of North America or other agreements providing for the interchange, use or possession of intermodal chassis, containers or other intermodal equipment.

"Promisee." A person that receives a promise under a motor carrier transportation contract. The term includes any agent, employee or independent contractor that is directly responsible to the promisee. The term excludes a motor carrier.

§ 8402. Indemnity provisions void.

(a) Public policy.--The General Assembly finds and declares that, except as set forth in subsection (c), indemnity provisions are against the public policy of the Commonwealth.

(b) Effect.--Except as set forth in subsection (c), an indemnity provision is void.

(c) Exception.--This section shall not apply to a contract or agreement which concerns or affects transportation involving a railroad.

Applicability. Section 2 of Act 83 of 2010 provided that section 8402 shall apply to contracts entered into on or after the effective date of section 2.

PART V
TRANSPORTATION INFRASTRUCTURE

Chapter

91. Public-Private Transportation Partnerships
92. Traffic Signals
93. Bridge Bundling Program
95. Public Utility Facilities
96. Steel Painting

Enactment. Part V was added July 5, 2012, P.L.853, No.88, effective in 60 days unless otherwise noted.

CHAPTER 91
PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIPS

Sec.

9101. Scope of chapter.
9102. Definitions.
9103. Public-Private Transportation Partnership Board.
9104. Duties of board.
9105. Operation of board.
9106. Solicitations for transportation projects.
9107. Transportation projects.
9108. Requests.
9109. Selection of development entities.
9110. Public-private transportation partnership agreement.
9111. Records of requests.
9112. Use of intellectual property.
9113. Police powers and violations of law.
9114. Environmental and other authorizations.
9115. Taxation of development entity.
9115.1. Prohibition on mandatory user fees.
9116. Power of eminent domain.
9117. Sovereign immunity.
9118. Specific performance.
9119. Applicability of other laws.
9120. Adverse interests.
9121. Federal, State, local and private assistance.
9122. Public-Private Transportation Account.
9123. Pennsylvania Turnpike Commission.
9124. Regulations.

Enactment. Chapter 91 was added July 5, 2012, P.L.853, No.88, effective in 60 days unless otherwise noted.

Special Provisions in Appendix. See section 6 of Act 84 of 2022 in the appendix to this title for special provisions relating to transportation projects.

§ 9101. Scope of chapter.

This chapter relates to public-private transportation partnerships.

§ 9102. Definitions.

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

"Account." The Public-Private Transportation Account.

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

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

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

(1) A private entity.

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

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

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

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

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

"Public entity." A Commonwealth agency as defined in 62 Pa.C.S. § 103 (relating to definitions), a municipal authority or an authority created by statute which owns a transportation facility. 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.

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

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(3) (Deleted by amendment).

(4) (Deleted by amendment).

(5) (Deleted by amendment).

(6) (Deleted by amendment).

(7) (Deleted by amendment).

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

"Request for transportation projects." A solicited or unsolicited plan for a transportation project submitted to the board by a public entity.

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

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

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

"Transportation facility." A proposed or existing road, bridge, tunnel, overpass, ferry, busway, guideway, public transportation facility, vehicle parking facility, port facility, multimodal transportation facility, airport, station, hub, terminal or similar facility used or to be used for the transportation of persons, animals or goods, together with any buildings, structures, parking areas, appurtenances, intelligent transportation systems and other property needed to operate or related to the operation of the transportation facility. The term includes any improvements or substantial enhancements or modifications to an existing transportation facility.

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

"Transportation-related service." Only the following services:

(1) Operations and maintenance.
(2) Revenue collection.
(3) Optional user fee collection or enforcement.
(4) Design.
(5) Construction.
(6) Development and other activities with respect to existing or new transportation facilities that enhance traffic throughput, reduce congestion, improve safety or otherwise manage or improve a transportation facility.
(7) Financing.

(July 11, 2022, P.L.1566, No.84, eff. imd.)

2022 Amendment. Act 84 amended the def. of "public-private transportation partnership agreement" and added the def. of "transportation-related service."

Effective Date. Section 3(1) of Act 88 of 2012 provided that section 9102 shall take effect immediately.

§ 9103. Public-Private Transportation Partnership Board.

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

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

(1) The Secretary of Transportation, who shall be the chairperson of the board, or a designee who shall be an employee of the department.
(2) The Secretary of the Budget or a designee who shall be an employee of the Office of the Budget.
(3) Four members appointed by the General Assembly under subsection (c).
(4) One member appointed by the Governor under subsection (d).

(c) Legislative appointments.--

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

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

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

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

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

(2) Legislative appointees shall be residents of this Commonwealth and serve at the pleasure of the appointing authority.

(3) Legislative appointees shall have expertise or substantial experience in one or more of the following areas:

(i) Transportation.

(ii) Finance.

(iii) Law.

(iv) Land use and public planning.

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

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

(2) Shall be a resident of this Commonwealth and have expertise or substantial experience in one or more of the following areas:

(i) Transportation.

(ii) Finance.

(iii) Law.

(iv) Land use and public planning.

(3) Shall serve at the pleasure of the Governor.

(e) Quorum.--Four members of the board shall constitute a quorum. The adoption of a resolution or other action of the board shall require a majority vote of the members of the board.

(f) Compensation.--The members of the board shall be entitled to no compensation for their services as members of the board but shall be entitled to reimbursement by the department for all necessary and reasonable expenses incurred in connection with the performance of their duties as members of the board.

(g) Initial appointment and vacancy.--Appointing authorities shall appoint initial board members within 30 days of the effective date of this section. Whenever a vacancy occurs on the board, the appointing authority shall appoint a successor member within 30 days of the vacancy.

(h) Financial interests.--No member of the board, during his term of office, shall directly or indirectly own, have any significant financial interest in, be associated with or receive any fee, commission, compensation or anything of value from any public entity or private entity seeking to engage in a public-private transportation partnership agreement. The provisions of this subsection shall not apply to the salary of a Commonwealth employee.

(i) Applicability.--The following acts shall apply to the board:

(1) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(2) The State Adverse Interest Act.

(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).

Effective Date. Section 3(1) of Act 88 of 2012 provided that section 9103 shall take effect immediately.

§ 9104. Duties of board.

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

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

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

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

(4) Evaluate and, where the board finds that the requests or plans for proposed transportation projects are in the best interests of the Commonwealth and a public entity, approve the requests or plans for proposed transportation projects. No proposed transportation project that provides for optional user fees may be approved by the board unless the board members approve such a project unanimously. The board shall approve a proposed transportation project by adopting a resolution.

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

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

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

(1) Upon receipt of the resolution from the board under section 9105(b.2), the General Assembly may, within 20 calendar days or nine legislative days, whichever is longer, pass a concurrent resolution rescinding the approval of a transportation project if the transportation facility which is the subject of the transportation project is owned by the Commonwealth.

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

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

(July 11, 2022, P.L.1566, No.84, eff. imd.)

2022 Amendment. Act 84 amended subsecs. (a)(2) and (4) and (c)(1).

Effective Date. Section 3(1) of Act 88 of 2012 provided that section 9104 shall take effect immediately.

Cross References. Section 9104 is referred to in section 9109 of this title.

§ 9105. Operation of board.

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

(b) Analysis.--The following shall apply:

(1) The department shall develop a detailed analysis of a request or recommendation for a proposed transportation project prior to requesting approval by the board.

(2) The analysis shall include the following:

(i) The anticipated location of the proposed transportation project.

(ii) The type of transportation facility or transportation-related service to be improved.

(iii) The estimated costs of the proposed transportation project to the public entity.

(iv) The estimated length of the public-private transportation partnership agreement.

(v) The potential social, economic and environmental impacts of the proposed transportation project.

(vi) If the proposed transportation project proposes an optional user fee, include the estimated amount for each user group and type of user fee as described under section 9110(f) (relating to public-private transportation partnership agreement).

(vii) Applicable Federal and State laws.

(viii) Alternative courses of action to improve the transportation facility or transportation-related service without a public-private transportation partnership and the associated risks of improving the transportation facility or transportation-related service with a public-private transportation partnership.

(2.1) The department may conduct additional evaluations prior to the development of the analysis.

(3) The department shall post a copy of the analysis on the department's publicly accessible Internet website, submit the analysis to the board and the chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives and transmit notice of the analysis to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin for 60 days prior to any action by the board.

(b.1) Public input.--The following shall apply:

(1) The department shall collect comments from the public on the proposed transportation project during a public comment period which shall commence with the publication of the notice in the Pennsylvania Bulletin of the analysis and shall continue for a period of not less than 30 days. Prior to any action by the board, the department shall post a copy of all submitted comments and a summary as provided under paragraph (2) on the department's publicly accessible Internet website and provide the submitted comments and summary to the board and the chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(2) The summary under paragraph (1) shall include a description of the proposed transportation project, a copy of the notice that was published in the Pennsylvania Bulletin, the time period that the public was allowed to provide input and a chart or graph that accurately portrays all submitted comments, including the positive and negative public input, on the proposed transportation project.

(b.2) Evaluation and approval.--The following shall apply:

(1) After consideration of the analysis and public comment, if the board finds that the proposed transportation

project is in the best interests of the Commonwealth, it may approve the proposed transportation project in the form of a resolution. For a proposed transportation project that may impose an optional user fee, unanimous approval of the board is required.

(2) Approval of a proposed transportation project, including a project with an optional user fee, shall be in the form of a resolution signed by the chairperson of the board. A copy of the resolution shall be posted on the department's publicly accessible Internet website and shall be transmitted by the department to the following entities within 48 hours after approval:

(i) The chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(ii) The Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(c) Oversight.--If a transportation project becomes a public-private transportation project, the department shall retain oversight and monitor the public-private transportation project, including periodic reports to the board, as necessary. (July 11, 2022, P.L.1566, No.84, eff. imd.)

2022 Amendment. Act 84 amended subsec. (b) and added subsecs. (b.1) and (b.2).

Effective Date. Section 3(1) of Act 88 of 2012 provided that section 9105 shall take effect immediately.

Cross References. Section 9105 is referred to in sections 9104, 9109 of this title.

§ 9106. Solicitations for transportation projects.

A public entity may solicit transportation projects through a request for transportation projects. The public entity shall give public notice of a request for transportation projects consistent with section 9109(c) (relating to selection of development entities). Offerors shall submit their responses to the public entity in the form and manner required by the request for transportation projects. A public entity shall evaluate each response to determine if the response is in the best interest of the public entity. Upon being satisfied, the public entity may prepare and submit a request to the board to review the transportation project in accordance with this chapter.

Cross References. Section 9106 is referred to in section 9120 of this title.

§ 9107. Transportation projects.

(a) Submission.--Except as provided under subsection (b), a public entity which seeks to undertake a transportation project which has not been previously approved by the board shall submit a request for the transportation project to the board.

(b) Exception.--This chapter shall not apply to a transportation project which a public entity is authorized under law to undertake on the effective date of this subsection.

§ 9108. Requests.

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

(1) Predevelopment agreements leading to other implementing agreements.

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

§ 9109. Selection of development entities.

(a) Conditions for use.--If a transportation project is approved under sections 9104 (relating to duties of board) and 9105 (relating to operation of board), the public entity may enter into a contract for the transportation project by competitive sealed proposals.

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

(c) Public notice.--A public entity shall give public notice of a request for proposals consistent with regulations adopted by the department. The notice shall be given a reasonable time prior to the date set for the close of receipt of the proposals. The method of public notice may include any of the following:
(1) Electronic publication which is accessible to the general public.
(2) Advertisement as provided for in 45 Pa.C.S. § 306 (relating to use of trade publications).
(3) Issuance of request for proposals to offerors on the mailing list of the public entity.
(4) Publication in a newspaper of general circulation.
(5) Where prequalification is a requirement of submitting a proposal, notification to all private entities who have been prequalified by the public entity.

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

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

(f) Evaluation.--A public entity shall evaluate each proposal to determine which proposal has the best value for and is in the best interest of the public entity. In making this determination, a public entity may consider any of the following:
(1) Cost.
(2) Price.
(3) Financial commitment.
(4) Innovative financing.
(5) Bonding.

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

(7) Financial strength and viability.

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

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

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

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

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

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

(g) Weighted consideration.--The relative importance of each evaluation factor shall be fixed prior to opening the proposals.

(h) Participation in evaluation.--If the public entity is a Commonwealth agency, the department is required to invite its comptroller to participate in the evaluation as a nonvoting member of any evaluation committee. No individual who has been employed by an offeror within the last two years may participate in the evaluation of proposals.

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

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

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

(l) Award.--Upon reaching an agreement with a responsible offeror, a public entity shall enter into a public-private transportation partnership agreement with the responsible offeror. The public-private transportation partnership agreement shall be consistent with the requirements of this chapter. If agreement cannot be reached with the best qualified responsible offeror, then negotiations will be formally terminated with the offeror. If proposals were submitted by one or more other responsible offerors, negotiations may be conducted with the other responsible offeror or responsible offerors in the order of their respective qualification ranking. The contract may be awarded to the responsible offeror then ranked as best qualified.

(m) Resolution of controversies involving the Commonwealth.--If a prospective offeror, offeror or development entity is aggrieved by a selection under this section and the public entity or proprietary public entity in the invitation or contract is a Commonwealth agency, the prospective offeror,

offeror or development entity may file a protest or a claim, as appropriate, in accordance with 62 Pa.C.S. Ch. 17 (relating to legal and contractual remedies).

(n) Resolution of controversies not involving the Commonwealth.--If a development entity is aggrieved by a selection under this section and the proprietary public entity in the contract is an entity other than the Commonwealth, a development entity may file a claim with the court of common pleas where the proprietary public entity is located. The process for the filing and resolution of claims, including rights, contents, timing, evaluation, determination and remedies, which are established in 62 Pa.C.S. Ch. 17, shall apply insofar as they are practicable.

(July 11, 2022, P.L.1566, No.84, eff. imd.)

2022 Amendment. Act 84 amended subsec. (a).

Cross References. Section 9109 is referred to in sections 9106, 9119, 9120 of this title.

§ 9110. Public-private transportation partnership agreement.

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

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

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

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

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

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

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

(7) The rights and remedies available in the event of breach, default or delay.

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

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

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

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

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

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

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

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

(16) Standards relating to performance criteria and incentives.

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

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

(19) An obligation of the development entity to offer employment to any employee of the proprietary public entity who would lose employment due to the execution of the public-private transportation partnership agreement and who is in good standing at the time of execution of the public-private transportation partnership agreement, including salary, retirement, health and welfare and benefits which are substantially identical to the benefits received by the employees immediately prior to execution of the public-private transportation partnership agreement for the term of the collective bargaining agreement of those employees in effect. An employee of the proprietary public entity who does not accept employment with the development entity shall be reassigned to an equivalent position, without loss of seniority, within a worksite in as close proximity to the public-private transportation project as feasible. Nothing in this paragraph shall impair provisions related to furloughs and layoffs of the collective bargaining agreement of those employees in effect.

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

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

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

(d) Public entity.--Nothing in this chapter shall prohibit a public entity from entering into a public-private transportation partnership agreement with one or more public entities in accordance with this chapter.

(e) Environmental costs.--

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

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

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

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

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

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

(f) Optional user fees.--A provision establishing whether optional user fees will be imposed for use of the public-private transportation project and the basis by which any optional user fees will be imposed and collected shall be determined in the public-private transportation partnership agreement. If an optional user fee is proposed as part of the public-private transportation project, a proprietary public entity shall include provisions in the agreement that authorize the collection of optional user fees, tolls, fares or similar charges, including provisions that:

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

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

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

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

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

(g) Amounts received under a public-private transportation partnership agreement.--The net proceeds received by the proprietary public entity under a public-private transportation partnership agreement shall be available exclusively to provide

funding for transportation needs in this Commonwealth. The use of the proceeds or other revenues from the public-private transportation project shall comply with Federal or State law restricting or limiting the use of revenue from the public-private transportation project based on its public funding.
(July 11, 2022, P.L.1566, No.84, eff. imd.)

2022 Amendment. Act 84 amended subsec. (f).

Cross References. Section 9110 is referred to in sections 9105, 9117 of this title.

§ 9111. Records of requests.

The following shall apply:

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

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

(3) If a proprietary public entity terminates a public-private transportation partnership agreement for default, rejects a private entity on the grounds that the private entity is not responsible or suspends or debars a development entity, the private entity or development entity, as appropriate, shall, upon written request, be provided with a copy of the information contained in the file of the private entity or development entity maintained by the proprietary public entity under a contractor responsibility program.

(4) The following information shall not be public:

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

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

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

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

(v) Records prepared or utilized to evaluate a proposal.

§ 9112. Use of intellectual property.

Unless otherwise agreed and except to the extent not transferable by law, the department or a proprietary public

entity shall have the right to use all or a portion of a submitted proposal, including the technologies, techniques, methods, processes and information contained in the proposal. Notice of nontransferability by law shall be given to the department and the proprietary public entity in response to the request for proposals.

§ 9113. Police powers and violations of law.

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

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

§ 9114. Environmental and other authorizations.

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

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

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

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

§ 9115. Taxation of development entity.

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

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

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

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

(July 11, 2022, P.L.1566, No.84, eff. imd.)

2022 Amendment. Act 84 amended subsecs. (a) and (b).

§ 9115.1. Prohibition on mandatory user fees.

A user fee may not be imposed as part of a transportation project approved under this chapter, unless the user fee is imposed only on individuals who select optional means to transit the transportation facility, such as limited access lanes or similar programs that allow individuals multiple means to transit the same transportation facility.

(July 11, 2022, P.L.1566, No.84, eff. imd.)

2022 Amendment. Act 84 added section 9115.1.

§ 9116. Power of eminent domain.

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

§ 9117. Sovereign immunity.

Under section 11 of Article I of the Constitution of Pennsylvania, it is declared to be the intent of the General Assembly that the Commonwealth, and its officials and employees, and a municipal authority, and its officials and employees, acting within the scope of their duties, shall continue to enjoy sovereign immunity and official immunity and remain immune from suit except as provided in section 9118 (relating to specific performance). A claim against the Commonwealth and its officials and employees or municipal authority and its officials and employees shall be brought only in such manner and in such courts and in such cases as directed by the provision of section 9110(e) (relating to public-private transportation partnership agreement), 42 Pa.C.S. Ch. 85 (relating to matters affecting government units), 62 Pa.C.S. Ch. 17 (relating to legal and contractual remedies) or any procurement law applicable to a municipal authority.

§ 9118. Specific performance.

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

Cross References. Section 9118 is referred to in section 9117 of this title.

§ 9119. Applicability of other laws.

(a) General rule.--Except as provided under subsection (b), all provisions of laws related to the development, construction, operation or financing of a transportation project in effect on the date the public-private transportation partnership agreement is fully executed shall apply to a public-private transportation partnership agreement entered into between a proprietary public entity and a development entity. The provisions shall include:

(1) The act of May 1, 1913 (P.L.155, No.104), referred to as the Separations Act; however, the development entity selected under section 9109 (relating to selection of development entities) shall be the person whose duty it is to receive separate bids and award and enter into separate contracts for each of the subject branches of work required for the erection, construction and alteration of a public building under a public-private transportation partnership agreement.

(2) The act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act.

(b) Limitation.--The following apply:

(1) If the public entity or the proprietary public entity is a Commonwealth agency, 62 Pa.C.S (relating to procurement) shall apply only to the extent provided under paragraph (2).

(2) The following shall apply if the public entity or the proprietary public entity is a Commonwealth agency:

(i) Section 107 (relating to reciprocal limitations).

(ii) Section 531 (relating to debarment or suspension).

(iii) Section 541 (relating to approval of accounting system).

(iv) Section 551 (relating to right to inspect plant).

(v) Section 552 (relating to right to audit records).

(vi) Section 563 (relating to retention of procurement records).

(vii) Chapter 17 (relating to legal and contractual remedies).

(Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

2013 Amendment. Act 89 amended subsec. (a)(1). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 9120. Adverse interests.

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

(1) Except as provided under paragraph (2), a private entity which submits a response to a request for proposals under section 9109 (relating to selection of development entities), a request for transportation projects under section 9106 (relating to solicitations for transportation projects) or an unsolicited proposal, and which is also a State advisor or a State consultant for the department or the Pennsylvania Turnpike Commission, shall not be deemed to be in violation of the State Adverse Interest Act while engaging in any of the following activities:

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

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

(iii) Negotiating and entering into any contract lease or public-private transportation partnership agreement which results from a request for proposals or transportation projects.

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

(2) A private entity which submits a response to a request for proposals or transportation projects or acts as a consultant or an advisor to a private entity which submits a response to a request for proposals or transportation projects to the department shall be prohibited from consulting or providing advice to the department on the review or approval of the response to the request for proposals or transportation projects as submitted.

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

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

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

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

§ 9121. Federal, State, local and private assistance.

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

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

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

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

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

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

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

(e) Itemization.--Pursuant to section 7(a)(4) of Article VIII of the Constitution of Pennsylvania, a public-private transportation project funded, in whole or in part, through the issuance of debt where the credit of the Commonwealth is pledged shall be itemized in a capital budget itemization act.

§ 9122. Public-Private Transportation Account.

(a) Establishment.--

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

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

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

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

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

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

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

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

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

(2) The Secretary of the Budget shall establish any restricted accounts within the account as the secretary deems necessary for the proper administration of the account.

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

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

(1) Paying the amounts as the department may be required to repay the Federal funding agencies.

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

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

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

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

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

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

(d) Amounts received.--The net proceeds received under a public-private transportation partnership agreement shall be available exclusively to provide funding for transportation needs in this Commonwealth. The use of the proceeds or other revenues from the public-private transportation project shall be in accord with Federal or State law restricting or limiting the use of revenue from the public-private transportation project based on its public funding.

§ 9123. Pennsylvania Turnpike Commission.

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

§ 9124. Regulations.

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

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

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

(3) The type and amount of information that is necessary for adequate review of and response to each stage of review of a proposal or transportation project.

(4) Any other provisions which are required under this chapter or which the department determines are appropriate for implementation of this chapter.

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

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

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

Effective Date. Section 3(1) of Act 88 of 2012 provided that section 9124 shall take effect immediately.

CHAPTER 92
TRAFFIC SIGNALS

Sec.
9201. Definitions.
9202. Maintenance agreement.

Enactment. Chapter 92 was added November 25, 2013, P.L.974, No.89, effective immediately.

Special Provisions in Appendix. See the preamble to Act 89 of 2013 in the appendix to this title for special provisions relating to legislative findings and declarations.

Cross References. Chapter 92 is referred to in section 9511 of Title 75 (Vehicles).

§ 9201. Definitions.

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

"Critical corridor." Either of the following:

(1) A State or municipal highway segment intersecting with a limited access ramp identified by the Secretary of Transportation.

(2) A State or municipal highway segment with bidirectional average annual daily traffic greater than 10,000 vehicles as determined by the department's Roadway Management System.

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

"Designated traffic corridor." A State or municipal highway segment, other than a critical corridor, determined by the Secretary of Transportation to be subject to the provisions of this chapter.

"Existing agreement." An agreement between the department and a municipality for the maintenance of a traffic signal existing prior to the effective date of this section.

"Maintenance." The activity of keeping a traffic signal in proper working condition during the useful life of the traffic signal.

"Municipality." A county, city, borough, incorporated town, township or home rule municipality.

"Replace." The modernization of an existing traffic signal within a critical or designated traffic corridor.

"Synchronize." The coordination of the timing of all traffic signals within a critical or designated traffic corridor for the purpose of operating as a single system.

"Timing." The programming of traffic signals within a critical or designated traffic corridor in order to synchronize the signals.

(July 20, 2016, P.L.861, No.101, eff. 60 days)

§ 9202. Maintenance agreement.

(a) Agreement.--A municipality may enter into an agreement with the department to replace, synchronize and time traffic signals located within a critical or designated traffic corridor. The terms of the agreement may specify that the municipality provide services to the department. The agreement shall not exceed the time period of the useful life of the traffic signals. The municipality shall, during the duration of the agreement, properly maintain and time the traffic signals in accordance with the agreement.

(b) Critical corridors.--A municipality shall enter into an agreement with the department under terms specified under

subsection (a) for critical corridors. A municipality shall provide to the department in a timely manner all traffic and intersection data that the municipality maintains for critical corridors and establish and agree to an operations plan with the department for critical corridors.

(c) Prioritization.--The department shall prioritize critical corridors and designated traffic corridors where proper signalization will provide the most benefit to the traveling public and reduce congestion. Priorities shall be reevaluated and updated as part of the 12-year transportation improvement plan cycle.

(d) Intergovernmental cooperation.--Two or more municipalities may enter into an agreement with the department if a designated traffic corridor is located in two or more municipalities.

(e) Maintenance.--If the department determines that one or more traffic signals are not being maintained or timed in accordance with an agreement under subsection (a) or an existing agreement, the department shall provide written notice to all municipalities subject to the agreement no less than 60 days prior to taking any action to correct the deficient maintenance and timing. The written notice shall specify the maintenance and timing deficiencies that are to be corrected.

(1) A municipality subject to an agreement under subsection (a) shall have 60 days to correct the deficiencies contained in the written notice or to contest, in writing, the findings of the department within 30 days following receipt of the written notice.

(2) The requirement that the municipality correct the deficiencies within 60 days following receipt of the written notice shall be temporarily stayed if the municipality timely contests the department's findings in writing.

(3) A municipality that contests the deficiencies specified in the written notice shall have 30 days to reach a written understanding with the department related to the deficiencies specified in the written notice.

(4) If the department and the municipality do not reach a written understanding under paragraph (3), the department and the municipality shall select a civil engineer licensed by the Commonwealth who has substantial experience in traffic engineering to mediate the dispute. The engineer chosen must not be under an existing contract with the department or municipality unless the contract is specifically related to traffic signal mediation.

(f) Failure of municipality to perform.--If a municipality that has entered into an agreement with the department under subsection (a) fails to meet the requirements of subsection (e)(1) or (2), the department may take action to correct the deficiencies specified in the notice under subsection (e).

(g) Payment for failure to correct deficiencies.--If the department takes action under subsection (f), the department may deduct the actual costs of correcting the deficiencies in maintenance and timing from the payments made to the municipality under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law, and 75 Pa.C.S. Chs. 89 (relating to Pennsylvania Turnpike) and 95 (relating to taxes for highway maintenance and construction).

(h) Cities of the first or second class.--Notwithstanding any other provision of law, the department may own, install, replace, synchronize, time, operate or maintain traffic signals within a city of the first class or a city of the second class.

(i) Department-managed signals.--The following apply:

(1) In accordance with subsection (c), the department may own, install, replace, synchronize, time, operate or maintain a traffic signal and all associated signs and markings included on a department-approved traffic signal plan within a municipality if the department publishes the location of the signal or the critical corridor as a notice in the Pennsylvania Bulletin.

(2) A municipality shall enact any ordinances and enter into any agreements necessary to complete the transfer of all rights and duties to department-managed signals under this subsection.

(j) Special pilot program for department-managed signals.--(Expired).

(July 20, 2016, P.L.861, No.101, eff. 60 days)

2022 Expiration. Subsection (j) expired January 1, 2022. See Act 101 of 2016.

2016 Amendment. Act 101 amended subsec. (a) and added subsecs. (h), (i) and (j).

Applicability. Section 43(5) of Act 89 of 2013 provided that section 9202 shall apply to contracts entered into on or after the effective date of section 43.

CHAPTER 93
BRIDGE BUNDLING PROGRAM

Sec.

9301. Definitions.
9302. Bundling authorization.
9303. Bridge Bundling Program.
9304. Special exceptions.

Enactment. Chapter 93 was added November 25, 2013, P.L.974, No.89, effective immediately.

Special Provisions in Appendix. See the preamble to Act 89 of 2013 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 9301. Definitions.

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

"Bridge capital budget act." The act of December 8, 1982 (P.L.848, No.235), known as the Highway-Railroad and Highway Bridge Capital Budget Act for 1982-1983.

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

"Determination." A decision by the department as to the eligibility, recommendation and inclusion in the program.

"Local government." A county, city, borough, town or township.

"Program." The Bridge Bundling Program.

§ 9302. Bundling authorization.

Notwithstanding any other law, the department is authorized to bundle the design and construction of bridges owned by the Commonwealth or an instrumentality of the Commonwealth or a local government as provided under this chapter.

§ 9303. Bridge Bundling Program.

(a) Establishment.--The Bridge Bundling Program is established within the department.

(b) Purpose.--The purpose of the program is to save costs and time by allowing multiple bridges to be replaced or rehabilitated as one project for design and construction purposes.

(c) Eligibility.--Bridges shall be eligible for the program if the bridges meet all of the following:

(1) Are within geographical proximity to each other.

(2) Are of similar size or design.

(3) Inclusion in the program will further the purpose of the program.

(d) Implementation.--The department shall implement the program as follows:

(1) The department shall annually develop a preliminary list from different regions of this Commonwealth, on a rotating basis, of bridges meeting eligibility requirements.

(2) The department shall notify local governments owning bridges recommended for inclusion in that year's program.

(3) Following receipt of notification from the department, the governing body of a local government shall have 60 days to agree or refuse to participate in the program. Failure to respond in writing within 60 days shall be considered a refusal to participate in the program.

(4) Based on the response from local governments under paragraph (3), the department shall make a determination of bridges to be designed and constructed under the program and provide a list of the bridges to the appropriate planning organizations.

(4.1) A determination shall not be:

(i) considered to be an adjudication under 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action); or

(ii) appealable to the department or a court of law.

(5) The following shall apply:

(i) A local government that agrees to participate in the program for one or more of its bridges shall enter into an agreement with the department. The agreement shall define the department's responsibility for the design and construction of the bridges and the continuing ownership and maintenance responsibilities of the local government for the bridges replaced or rehabilitated under the program.

(ii) The local government shall have 90 days following receipt of the agreement to execute and return the agreement to the department.

(iii) Failure to return an agreement executed by authorized local government officials under subparagraph (ii) shall be deemed a refusal to participate in the program.

(6) Upon full execution of an agreement under the program, the department shall manage the project design and construction in a manner consistent with the purpose of the program.

(e) Itemization.--Notwithstanding any other law, bridges determined to be eligible and recommended for the program by the department shall not require specific itemization in a capital budget.

Cross References. Section 9303 is referred to in section 9304 of this title.

§ 9304. Special exceptions.

Notwithstanding section 2(c) of the bridge capital budget act:

(1) A local government that participates in the program shall be eligible for a reduction of up to 100%, as determined by the Secretary of Transportation, of its share of local costs associated with the design and construction of the bridge determined to be eligible for the program by the secretary.

(2) A local government that refuses to participate, or has been deemed to have refused to participate, in the program after receiving notification from the department under section 9303(d) (relating to Bridge Bundling Program) shall be responsible for 30% of the non-Federal share of the costs incurred with respect to the local government's bridges replaced or rehabilitated under programs other than the program established in this chapter.

CHAPTER 95
PUBLIC UTILITY FACILITIES

Sec.
9501. Adjustment.

Enactment. Chapter 95 was added November 25, 2013, P.L.974, No.89, effective in 60 days.

Special Provisions in Appendix. See the preamble to Act 89 of 2013 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 9501. Adjustment.

(a) General rule.--The following shall apply:

(1) If, in the construction, reconstruction, widening or relocation of a State highway, bridge or tunnel or a part of a State highway, bridge or tunnel, it becomes necessary, in the opinion of the Department of Transportation, to change, alter, adjust or relocate a water line or sanitary sewer owned and operated by a public utility, as defined in 66 Pa.C.S. § 102 (relating to definitions), the department may make the change, alteration, adjustment or relocation as may be required as a part of the construction, reconstruction, widening or relocation.

(2) In addition to paragraph (1), the department may also enter into agreements with the public utility for the sharing of costs of the change, alteration, adjustment or relocation. If, in the opinion of the department, the costs should be shared by the department and a public utility and the department is unable to agree with the public utility to a division of costs, the department may proceed with the work and petition the Pennsylvania Public Utility Commission for a determination of the costs to be borne by each party.

(b) Declaration of policy.--A public utility under subsection (a) shall be entitled to a reimbursement in a similar manner as a city, borough, incorporated town, township and municipal authority under section 412.1 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law.

CHAPTER 96
STEEL PAINTING

Sec.
9601. Definitions.

9602. Prequalification of bidders.

Enactment. Chapter 96 was added November 25, 2013, P.L.974, No.89, effective in 60 days.

Special Provisions in Appendix. See the preamble to Act 89 of 2013 in the appendix to this title for special provisions relating to legislative findings and declarations.

§ 9601. Definitions.

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

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

"QP1 certification." A painting contractor approval that evaluates a contractor who performs surface preparation and industrial coating application on steel structures in the field to confirm the contractor's ability to provide quality work in accordance with applicable safety, health and environmental standards.

"QP2 certification." A painting contractor approval that evaluates a contractor's ability to perform industrial hazardous paint removal in a field operation to confirm the contractor's ability to provide quality work in accordance with applicable safety, health and environmental standards.

"Secretary." The Secretary of Transportation of the Commonwealth.

§ 9602. Prequalification of bidders.

(a) Establishment.--Notwithstanding any other provision of law, the department shall establish procedures to authorize third parties to prequalify competent and responsible bidders for high performance and conventional steel painting for highway and bridge projects.

(b) Certification.--Bidders eligible for prequalification under subsection (a) shall have obtained a QP1 certification or QP2 certification, as appropriate, as developed by the Society for Protective Coatings, formerly known as the Steel Structures Painting Council, or other certification that is substantially equivalent to a QP1 or QP2 certification, as determined by the secretary.

(c) Effectiveness.--The secretary's designation of a third party to prequalify bidders under this section shall be effective for a period not exceeding one year from the date of the designation.

(d) Suspension or debarment.--Nothing under this section shall prevent the department from suspending or debarring a contractor, under the terms and conditions set forth in 67 Pa. Code §§ 457.13 (relating to suspension or debarment) and 457.14 (relating to debarment appeals procedure), that has been prequalified by a third party under this section.

APPENDIX TO TITLE 74
TRANSPORTATION

Supplementary Provisions of Amendatory Statutes

1994, FEBRUARY 10, P.L.20, NO.3

Preamble

The General Assembly finds and declares as follows:

(a) Findings.--

(1) There exists in the urban and suburban communities in metropolitan areas, traffic congestion and serious mass transportation problems because of underdeveloped mass transportation facilities resulting in inadequate or overcrowded high-cost conditions on Commonwealth highways and existing mass transportation facilities.

(2) Such conditions or a combination of some or all of them have made and will continue to result in making such communities economic and social liabilities harmful to the social and economic well-being of the entire area, depreciating values therein, reducing the tax revenues, making the metropolitan areas and their constituent communities less desirable areas in which to live and work and thereby depreciating further the general community-wide values.

(3) The foregoing conditions cannot be effectively dealt with by private enterprise under existing law without the additional aids granted in this act and are beyond remedy or control by governmental regulatory processes.

(4) The sound planning and development of metropolitan mass transportation facilities in accordance with sound and approved plans for their promotion, development and growth will promote the public health, safety, convenience and welfare, and the public acquisition of existing mass transportation facilities in accordance with the sound plans for their redevelopment and promotion will promote the public health, safety, convenience and welfare.

(5) The well-being and economic health of the counties and other communities in the metropolitan areas require integrated systems of mass passenger transportation.

(6) It is desirable that the public transportation systems in the metropolitan areas be improved, extended and supplemented by the creation of authorities as provided in this act.

(7) The establishment of metropolitan transportation authorities as authorities of the Commonwealth and the continuance of the existing metropolitan transportation authorities will promote the public safety, convenience and welfare.

(8) It is intended that metropolitan transportation authorities cooperate with or acquire existing transportation operators or facilities so that private enterprise and government may mutually provide adequate transit facilities for the convenience of the public.

(9) It is intended that any authority created or continued under this act will cooperate with all municipalities and other public bodies in whose territories it operates so that the transportation system may best serve the interests of the residents thereof.

(10) It is intended that the operation of a transportation system will enhance the quality of the environment of the metropolitan area by relieving highway congestion and providing for multipassenger traveling patterns.

(11) It is intended that residents of the metropolitan area may be provided with access to transportation facilities and the ability to travel within the metropolitan area regardless of disability or handicap.

(b) Declaration.--Therefore, it is hereby declared to be the policy of the Commonwealth to promote the safety and welfare of its inhabitants by authorizing the creation or continuation of a body corporate and politic for each metropolitan area, to be known as the transportation authority of such area, which shall exist and operate for the purposes contained in this chapter as an authority of the Commonwealth. These purposes are hereby declared to be public uses for which public money may be spent and private property may be acquired by the exercise of the power of eminent domain.

Explanatory Note. Act 3 amended, added or repealed sections 1311, 1312 and 1313 and Chapters 15 and 17 of Title 74 and sections 1532, 1550, 6323 and 9511 of Title 75.

2004, NOVEMBER 30, P.L.1618, NO.207

§ 29. Construction of law.

Nothing in this act shall be construed or deemed to provide magisterial district judges with retirement benefits or rights that are different from those available to district justices or justices of the peace immediately prior to the effective date of this act. Nothing in this act shall be construed or deemed to provide senior magisterial district judges with retirement benefits or rights that are different from those available to senior district justices immediately prior to the effective date of this act.

Explanatory Note. Act 207 amended section 5703 of Title 74.

2007, JULY 18, P.L.169, NO.44

§ 8. Continuation of prior financial assistance and funds appropriated.

(a) Financial assistance.--Financial assistance made by the Department of Transportation under 74 Pa.C.S. Ch. 13 prior to the effective date of this section may continue to be used by recipients for operating or capital expenses upon the same terms and conditions as are contained in the notice of grant award or grant agreement executed in connection with the award, if the funds are expended within five years following the effective date of this section.

(b) Funds.--The Department of Transportation may continue to use all funds appropriated or otherwise made available to it for public transportation purposes prior to the effective date of this section in accordance with the laws under which the funds were made available.

Explanatory Note. Act 44 added section 303 and repealed or added Chapters 13, 15, 81 and 82 of Title 74.

§ 9. Public Transportation Assistance Fund.

The repeal of 74 Pa.C.S. Ch. 13 is subject to the following:

(1) Notwithstanding the repeal:

(i) The fund shall continue to receive revenue the fund was entitled to receive on June 30, 2007.

(ii) Transit entities that have outstanding obligations shall continue to receive money from the fund calculated and paid in the same manner as was provided on June 30, 2007.

(iii) Transit entities that do not have outstanding obligations shall not be entitled to receive additional money from the fund after June 30, 2007.

(iv) No transit entity shall be entitled to pledge the money from the fund to secure additional obligations issued after June 30, 2007.

(v) Money remaining in the fund after payments under subparagraph (ii) shall be transferred monthly to the Public Transportation Trust Fund established under 74 Pa.C.S. § 1506.

(vi) Payments to transit entities under 74 Pa.C.S. Ch. 15 shall be reduced by amounts received by the transit entity from the fund under subparagraph (ii).

(2) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

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

"Fund." The Public Transportation Assistance Fund.

"Obligations." Any bonds, notes, bond anticipation notes, refunding notes and bonds, interim certificates, debentures and other evidences of indebtedness or obligations of a transit entity with respect to which revenues from the fund have been pledged prior to June 30, 2007.

"Transit entity." Any class of transit entity, as defined in former section 1301 of Title 74.

(3) The Commonwealth pledges to and agrees with any person, firm or corporation holding any bonds previously issued by, or any other debt incurred by, a local transportation organization and secured in whole or part by a pledge of the funds provided to the local transportation organization from the Public Transportation Assistance Fund that the Commonwealth will not limit or alter rights vested in a local transportation organization in any manner inconsistent with obligations of the local transportation organization to the obligees of the local transportation organization until all bonds previously issued or other debt incurred, together with the interest on the bonds or debt, is fully paid or provided for.

§ 11. Continuation of prior law.

The addition of 74 Pa.C.S. Ch. 81 is a continuation of the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act. The following shall apply:

(1) Except as otherwise provided under 74 Pa.C.S. Ch. 81, all activities initiated under the Turnpike Organization, Extension and Toll Road Conversion Act shall continue and remain in full force and effect and may be completed under 74 Pa.C.S. Ch. 81. Orders, regulations, rules and decisions which were made under the Turnpike Organization, Extension and Toll Road Conversion Act and which are in effect on the effective date of section 10(2) of this act shall remain in full force and effect until revoked, vacated or modified under 74 Pa.C.S. Ch. 81. Contracts, obligations and collective bargaining agreements entered into under the Turnpike Organization, Extension and Toll Road Conversion Act are not affected nor impaired by the repeal of the Turnpike Organization, Extension and Toll Road Conversion Act.

(2) Except as set forth in paragraph (3), any difference in language between 74 Pa.C.S. Ch. 81 and the Turnpike

Organization, Extension and Toll Road Conversion Act is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of the Turnpike Organization, Extension and Toll Road Conversion Act.

(3) Paragraph (2) shall not apply to any of the following:

(i) In section 8102:

(A) Paragraphs (1), (6) and (7) of the definition of "cost of the turnpikes."

(B) Paragraph (2) of the definition of "turnpikes."

(C) The definitions of "auditor general's certificate," "cost of the department," "general reserve fund surplus," "public passenger transportation," "rural State highway system," "secretary," "State highway," and "system of public passenger transportation."

(ii) Section 8105(b)(2).

(iii) Section 8107(a)(9) and (10).

(iv) Section 8112(a)(1)(iii), (2) and (4), (b)(2) and (c)(1).

(v) Section 8113.

(vi) Section 8114(c) and (d).

(vii) Section 8116.

2012, JULY 5, P.L.1140, NO.140

§ 2. Designation of bridge.

The bridge on U.S. Route 202 Parkway over Pennsylvania Route 309 in Montgomery Township, Montgomery County, is designated as the Chief Richard J. Brady Bridge. The Department of Transportation shall erect and maintain appropriate signs displaying the name of the bridge to traffic in both directions.

Explanatory Note. Act 140 added section 8309 of Title 74.

2013, NOVEMBER 25, P.L.974, NO.89

Preamble

The General Assembly finds and declares as follows:

(1) It is the purpose of this act to ensure that a safe and reliable system of transportation is available to the residents of this Commonwealth.

(2) The Commonwealth's transportation system includes nearly 40,000 miles of roads and 25,000 bridges owned by the Commonwealth, nearly 77,000 miles of roads and 12,000 bridges owned by counties and municipal governments, 36 fixed-route public transportation agencies, 67 railroads, 133 public-use airports, the Ports of Erie, Philadelphia and Pittsburgh and numerous bicycle and pedestrian facilities.

(3) The Commonwealth's transportation system provides for access to employment, educational services, medical care and other life-sustaining services for all residents of this Commonwealth, including senior citizens and people with disabilities.

(4) The Department of Transportation of the Commonwealth has indicated that 9,000 miles of roads owned by the

Commonwealth are in poor condition and that 4,400 bridges owned by the Commonwealth are rated structurally deficient. The State Transportation Advisory Committee has indicated that 2,189 bridges exceeding 20 feet in length owned by counties and municipalities are rated structurally deficient.

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

(6) The Commonwealth has limited resources to fund the maintenance and expansion of its transportation facilities.

(7) The State Transportation Advisory Committee reported in 2010 that the Commonwealth's transportation system is underfunded by $3,500,000,000 and projected that amount will grow to $6,700,000,000 by 2020 without additional financial investment by the Commonwealth.

(8) To ensure the needs of the public are adequately addressed, funding mechanisms must be enhanced to sustain the Commonwealth's transportation system in the future.

(9) The utilization of user fees establishes a funding source for transportation needs that spreads the costs across those who benefit from the Commonwealth's transportation system.

(10) Pursuant to section 11 of Article VIII of the Constitution of Pennsylvania, all highway and bridge user fees must be used solely for construction, reconstruction, maintenance and repair of and safety on public highways and bridges and costs and expenses incident thereto.

(11) In order to ensure a safe and reliable system of public transportation, aviation, ports, rail and bicycle and pedestrian facilities, other transportation-related user fees must be deposited in the Public Transportation Trust Fund and the Multimodal Transportation Fund.

(12) In furtherance of the Commonwealth's energy policy, which includes becoming independent from overreliance on foreign energy sources, programs must be established to promote reliance on or conversion to alternative energy sources, including the vast natural gas supply of this Commonwealth.

(13) The Department of Transportation is responsible for the operation of the Commonwealth's transportation system, including administration, driver and vehicle services, highway administration, multimodal transportation and planning. To this end, the department is charged with the registration of vehicles, including the issuance and proper mounting of license plates and special registration plates and assessing those costs and financial impact and ensuring road safety and movement by the posting of maximum speed limits on highways.

(14) Recognition and furtherance of all these elements is essential to promoting the health, safety and welfare of the citizens of this Commonwealth.

Explanatory Note. Act 89 amended, added, reenacted or repealed Chapter 2, sections 303, 1503, 1504, 1506, 1507, 1511, 1512, 1514, 1516, 1517 and 1517.1, Chapter 21, Subchapter C of Chapter 59, sections 8105, 8121, 8204 and 9119 and Chapters 92, 93, 94, 95 and 96 of Title 74 and sections 1307, 1332, 1353, 1354, 1355, 1370, 1550, 1553, 1554, 1617, 1786, 1903, 1904, 1911, 1913, 1916, 1917, 1918, 1920, 1921, 1922, 1924, 1925, 1926, 1926.1, 1927, 1928, 1929, 1930, 1931, 1931.1, 1932, 1933, 1935, 1942, 1943, 1944, 1945, 1947, 1951, 1952, 1953, 1955,

1956, 1957, 1958, 1959, 1960, 1961, 2102, 3111, 3362, 3363, 4902, 4962, 4968, 6110, 6110.1, 6118, 6506, 8901, 8915.6, 9002, 9004, 9006, 9010, 9017, 9301, 9023, 9106 and 9511 of Title 75.

§ 43. Applicability.

The following shall apply:

* * *

(3) The amendment of 74 Pa.C.S. § 8105(b)(2) shall apply to members of the Pennsylvania Turnpike Commission appointed for the first time after the effective date of this section.

* * *

§ 46. Maximum principal amount of additional debt.

The maximum principal amount of additional debt to be incurred under this act for capital projects specifically itemized in a capital project itemization act pursuant to section 7(a)(4) of Article VIII of the Constitution of Pennsylvania shall be $500,000,000. Debt shall be incurred in accordance with the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, and the Motor License Fund shall be charged with the repayment of the debt. The net proceeds from the sale of obligations authorized in this section are appropriated to the Department of Transportation to be used exclusively to defray financial costs of capital projects specifically itemized in accordance with the Capital Facilities Debt Enabling Act. The money necessary to pay debt service or to pay arbitrage rebates required under section 148 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 148) due on the obligations under this section in fiscal year 2013-2014 is appropriated to the State Treasurer from the Motor License Fund.

§ 47. Costs incurred by department.

The sum of $1,000,000 is appropriated to the Department of Transportation from the Multimodal Transportation Fund for costs incurred by the department in the administration of the programs under 74 Pa.C.S. § 2104(a)(1).

2016, NOVEMBER 3, P.L.1053, NO.135

§ 7. Status of certain businesses.

The amendment of 51 Pa.C.S. §§ 9601 and 9602 shall not affect nor impair the status of any of the following under 51 Pa.C.S. Ch. 96 or 74 Pa.C.S.:

(1) A veteran-owned small business.

(2) A service-disabled veteran-owned small business.

Explanatory Note. Act 135 added Chapter 72 and Subchapter A heading of Chapter 96, amended section 9601, added Subchapter B heading of Chapter 96, amended section 9602 and added Subchapter C of Chapter 96 of Title 51.

2022, JULY 11, P.L.1566, NO.84

§ 6. Transportation projects.

The following shall apply:

(1) Except as provided under paragraphs (2) and (3), the resolution ratifying action of the Public-Private Transportation Partnership Board on November 12, 2020, approving the public-private partnership delivery model,

including user fees, for interstate bridges or expressway bridges shall be rescinded.

(2) Notwithstanding any other provision of law and subject to paragraph (3), the Department of Transportation may continue work and proceed with the transportation project ratified by the resolution under paragraph (1), including any contract issued under a public-private partnership delivery model, but may not impose or collect optional user fees unless the department submits the transportation project for approval under 74 Pa.C.S. Ch. 91 after the effective date of this section.

(3) The transportation project ratified by the resolution under paragraph (1) shall only provide authority to the department for the following transportation facilities:

(i) Allegheny County, bridge keys 855 and 858.

(ii) Berks County, bridge key 4677.

(iii) Clarion County, bridge keys 10944 and 10945.

(iv) Dauphin County, bridge key 14257.

(v) Jefferson County, bridge keys 19565 and 19566.

(vi) Luzerne County, bridge keys 23645 and 23646.

(vii) Luzerne and Carbon Counties, bridge keys 8972 and 8974.

(viii) Philadelphia County, bridge keys 38533 and 38535.

(ix) Susquehanna County, bridge keys 32209 and 32210.

Explanatory Note. Act 84 amended or added sections 9102, 9104, 9105, 9109, 9110, 9115 and 9115.1 of Title 74.