

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 1154 Session of  
1975INTRODUCED BY MURRAY, MESSINGER, FRAME AND MANBECK,  
NOVEMBER 17, 1975

AS AMENDED ON THIRD CONSIDERATION, NOVEMBER 25, 1975

## AN ACT

1 Authorizing development of rural and intercity common carrier  
2 surface transportation.

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

5 Section 1. Short Title.--This act shall be known and may be  
6 cited as the "Pennsylvania Rural and Intercity Common Carrier  
7 Surface Transportation Assistance Act."

8 Section 2. Findings and Declaration of Policy.--(a) It is  
9 hereby determined and declared as a matter of legislative  
10 finding:

11 (1) That the welfare and vitality of the Commonwealth, the  
12 satisfactory movement of people and goods within the  
13 Commonwealth, and the effectiveness of highway, industrial  
14 development and other programs are being jeopardized by the  
15 deterioration or inadequate provision of rural and intercity  
16 common carrier surface transportation facilities and services,  
17 the intensification of traffic congestion, railroad bankruptcies  
18 and the lack of coordinated transportation and other development

1 planning on a comprehensive basis.

2 (2) That State financial assistance for the development of  
3 efficient and coordinated intercity common carrier surface  
4 transportation systems, facilities and services is essential to  
5 the solution of these Statewide problems.

6 (3) That efficient and coordinated intercity common carrier  
7 surface transportation systems, facilities and services will  
8 promote the public health, safety, convenience and welfare.

9 (4) That modern, efficient intercity common carrier surface  
10 transportation is a necessary part of a balanced transportation  
11 system.

12 (5) That the Regional Rail Reorganization Act of 1973  
13 (Pub.L.93-236) requires State participation in the continuation  
14 of branch line rail service.

15 (b) Therefore, it is hereby declared to be the policy of the  
16 General Assembly of the Commonwealth of Pennsylvania to promote  
17 the health, safety, convenience and welfare of its inhabitants  
18 by means of State financed projects and financial assistance for  
19 the development of efficient and coordinated rural and intercity  
20 common carrier surface transportation systems, facilities and  
21 services. Such purposes are hereby declared to be public uses.

22 Section 3. Definitions.--As used in this act:

23 "Capital project" means the constructing, improving,  
24 equipping and/or leasing of any system of rural and intercity  
25 common carrier surface transportation or any components thereof,  
26 including but not limited to rolling stock, including self-  
27 propelled and multiple unit cars, freight cars, locomotives,  
28 passenger buses, and wires, poles and equipment for the  
29 electrification of any of the foregoing, rails, tracks,  
30 roadbeds, guideways, elevated structures, buildings, stations,

1 terminals, docks, shelters, airports and parking areas for use  
2 in connection with rural and intercity common carrier surface  
3 transportation systems; right-of-way, interconnecting lines and  
4 tunnels; or any improvement of or equipment or furnishings for  
5 any of the foregoing or any part of fractional and undivided co-  
6 ownership interest in any one or combination of any of the  
7 foregoing, that may be designated as a capital project by the  
8 secretary. "Capital project" shall also include the acquisition,  
9 by purchase or assignment or otherwise, of all or part of any  
10 construction or acquisition contract from any transportation  
11 organization or company relating to any project or projects at  
12 any stage of construction, or after completion.

13 "Department" means the Pennsylvania Department of  
14 Transportation.

15 "Federal agency" means and includes the United States of  
16 America, the President of the United States of America, and any  
17 department of, or corporation, agency, or instrumentality  
18 heretofore or hereafter created, designated or established by  
19 the United States of America.

20 "Project grant" means and includes the Commonwealth's share  
21 of the cost of carrying out the particular project, which may  
22 include costs incurred prior to the effective date of this act  
23 and which cost shall include an appropriate allowance for the  
24 administrative expenses involved in carrying out the project.

25 "Rural and intercity common carrier surface transportation"  
26 means transportation provided by any and all persons or  
27 corporations holding out, offering, or undertaking, directly or  
28 indirectly, service for compensation to the public for the  
29 transportation of passengers or property, or both, or any class  
30 of passengers or property, other than passenger transportation

1 provided wholly within an urbanized area by, through, over,  
2 above, or under land, or water and shall include transportation  
3 provided by forwarders, but shall not include transportation  
4 provided by contract carriers by motor vehicles, or brokers, or  
5 any bona fide cooperative association transporting property  
6 exclusively for the members of such association on a nonprofit  
7 basis.

8 "Secretary" means the Pennsylvania Secretary of  
9 Transportation.

10 "Transportation company" means and includes any person, firm  
11 or corporation rendering common carrier surface transportation  
12 service, in this Commonwealth pursuant to common carrier  
13 authorization from the Pennsylvania Public Utility Commission or  
14 the Interstate Commerce Commission or the United States Railway  
15 Association.

16 "Transportation organization" means any political subdivision  
17 or any mass transportation or port authority or airport  
18 authority now or hereafter organized under the law of  
19 Pennsylvania or pursuant to an interstate compact or otherwise  
20 empowered to render transportation service or assist in the  
21 rendering of transportation service in the Commonwealth of  
22 Pennsylvania, even though it may also render transportation  
23 service in adjacent states, or any combination of two or more of  
24 such entities.

25 Section 4. Program Authorizations.--The department is hereby  
26 authorized, within the limitations hereinafter provided:

27 (1) To undertake and to provide financial support for  
28 research projects, by contract or otherwise, concerning rural  
29 and intercity common carrier surface transportation.

30 (2) To undertake projects and to make project grants to

1 transportation organizations or transportation companies:

2 (i) For the purpose of studies, analysis, planning and  
3 development of programs for rural and intercity common carrier  
4 surface transportation service and facilities, and for the  
5 purpose of activities related to the planning, engineering and  
6 designing of specific rural and intercity common carrier  
7 transportation projects which are a part of a comprehensive  
8 program, including, but not limited to, activities such as  
9 studies relating to management, operation, capital requirements  
10 and economic feasibility, to the preparation of engineering and  
11 architectural surveys, plans and specifications, and to other  
12 similar or related activities preliminary to and in preparation  
13 for the construction, acquisition or improved operation of rural  
14 and intercity common carrier surface transportation systems,  
15 facilities and equipment.

16 (ii) To provide for research, development and demonstration  
17 projects in all phases of rural and intercity common carrier  
18 surface transportation (including the development, testing and  
19 demonstration of new facilities, equipment, techniques and  
20 methods) to assist in the solution of rural and intercity common  
21 carrier surface transportation problems, in the improvement of  
22 rural and intercity common carrier surface transportation  
23 service, and the contribution of such service toward meeting  
24 total rural and intercity common carrier surface transportation  
25 needs at minimum cost.

26 (iii) To provide for programs designed solely to advertise,  
27 promote and stimulate the development and use of rural and  
28 intercity common carrier surface transportation facilities.

29 (iv) To finance or assist in financing the provision or  
30 continuation of necessary rural and intercity common carrier

1 surface transportation service, to permit continuation of and/or  
2 needed improvements in services which are not self-supporting,  
3 and to permit services which may be socially and economically  
4 desirable but not capable of generating a net income. Each  
5 project and project grant shall be subject to annual review and  
6 renewal by the secretary. Each project grant shall be based upon  
7 a program or plan approved by the department as in furtherance  
8 of a coordinated rural and intercity common carrier surface  
9 transportation plan for the Commonwealth, and not involving  
10 unnecessary and unfair competition. No State grant shall be made  
11 for a particular project unless the department determines and  
12 finds for said project that:

13 (A) the project is necessary in the public interest; and

14 (B) the intercity and rural common carrier is taking or will  
15 take continuing action to improve the service and hold losses to  
16 a minimum.

17 No agreement referred to in this paragraph (2) shall impair,  
18 suspend, contract, enlarge or extend or affect in any manner the  
19 powers of the Pennsylvania Public Utility Commission or the  
20 Interstate Commerce Commission or the United States Railway  
21 Association otherwise applicable by law.

22 (3) To undertake capital projects and make capital project  
23 grants to transportation organizations and/or transportation  
24 companies if the primary purpose thereof, as determined by the  
25 department which determination shall be conclusive, is to  
26 facilitate and improve rural and intercity common carrier  
27 surface transportation, in accordance with the programs of the  
28 department. In view of the particular sensitivity of special  
29 instrumentalities and agencies of the Commonwealth created to  
30 serve or coordinate the local transportation needs of

1 substantial metropolitan areas, no passenger service project for  
2 use exclusively or principally in the local service area of any  
3 such agency or instrumentality in which a city or county of the  
4 first or second class has membership, shall receive a project  
5 grant except in accordance with a system of priorities agreed  
6 upon by the department and such agency or instrumentality. In  
7 the case of a project grant for a passenger service project to  
8 be operated exclusively or principally within the local service  
9 areas of such agency or instrumentality no project grant shall  
10 be made except in accordance with agreements by the department  
11 and such agency or instrumentality with respect to such use. In  
12 the case of a project not falling within the scope of the  
13 preceding sentence but covering use both within and without the  
14 local service area of such agency or instrumentality, the  
15 project grant shall require that the routes, schedules, and  
16 fares applicable only within such service areas shall be  
17 determined only after consultation with such agency or  
18 instrumentality. FOR THE PURPOSE OF THIS SUBSECTION, LOCAL  
19 SERVICE AREA SHALL MEAN ONLY THE CITIES, BOROUGHES AND TOWNSHIPS  
20 PROVIDED PASSENGER SERVICE BY SUCH AGENCY OR INSTRUMENTALITY.

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21 (4) Projects may be undertaken and project grants may be  
22 made with reference to any appropriate project, irrespective of  
23 when it was first commenced or considered and regardless of  
24 whether costs with respect thereto shall have been incurred  
25 prior to the time the project is undertaken or the project grant  
26 is applied for or made.

27 Section 5. Intercity Rail Passenger Service Program.--(a)  
28 The department may cooperate and contract with the National  
29 Railroad Passenger Corporation for any intercity rail passenger  
30 services deemed necessary, convenient or desirable by the

1 secretary, within the amounts available by appropriation  
2 therefor, as such services are made available pursuant to the  
3 provisions of the Federal Rail Passenger Service Act of 1970 and  
4 any acts amendatory or supplemental thereto. Notwithstanding any  
5 inconsistent law, general, special or local, the secretary, as  
6 funds are made available for the purposes hereof, is hereby  
7 empowered to contract with such corporation and to do all other  
8 things necessary, convenient or desirable on behalf of the  
9 Commonwealth to secure the full benefits available under and  
10 pursuant to such act, and to contract and do all other things  
11 necessary as hereinafter provided on behalf of the Commonwealth  
12 to effect the intercity rail passenger service program which he  
13 determines is necessary, convenient or desirable. Such  
14 requirements shall include compliance with labor protection  
15 provisions of the National Railroad Passenger Act.

16 (b) The department shall coordinate the intercity rail  
17 passenger activities of the Commonwealth and other interested  
18 public and private organizations and persons to effectuate the  
19 purposes of this section and shall have the responsibility for  
20 negotiating with the Federal Government with respect to  
21 intercity rail passenger service programs. The secretary is  
22 authorized to enter into joint service agreements between the  
23 Commonwealth and any railroad company; any other Commonwealth  
24 department or agency or instrumentality thereof; any Federal  
25 agency; any other state or agency or instrumentality thereof; or  
26 any political subdivision or municipality of the Commonwealth or  
27 any other state, or any instrumentality thereof, relating to  
28 property, buildings, structures, facilities, services, rates,  
29 fares, classifications, dividends, allowances or charges  
30 (including charges between intercity rail passenger service



1 facilities), or rules or regulations pertaining thereto, for or  
2 in connection with or incidental to transportation in whole or  
3 in part upon intercity rail passenger service facilities.  
4 Intercity rail passenger service facilities include the right-  
5 of-way and related trackage, rails, cars, locomotives, or other  
6 rolling stock, signal, power, fuel, communication and  
7 ventilation systems, power plants, stations, terminals, storage  
8 yards, repair and maintenance shops, yards, equipment and parts,  
9 offices and other real estate or personality used or held for or  
10 incidental to the operation, rehabilitation or improvement of  
11 any railroad operating intercity rail passenger service or to  
12 operate such service, including but not limited to buildings,  
13 structures, and rail property.

14 (c) With the approval of the Governor or his designee, the  
15 secretary may on such terms and conditions as he may determine  
16 necessary, convenient or desirable rehabilitate any such  
17 intercity rail passenger service facility or any related  
18 services and activities, or may provide for such by contract,  
19 lease or other arrangement on such terms as the secretary may  
20 deem necessary, convenient or desirable with any agency,  
21 corporation or person, including but not limited to any railroad  
22 company, any State agency, the Federal Government, any other  
23 state or agency or instrumentality thereof, any public authority  
24 of this or any other state, or any political subdivision or  
25 municipality of the State. As used in this subsection,  
26 rehabilitate may include renovation, improvement, extension,  
27 repair, or, where incidental and money-saving, construction of  
28 part of any such intercity rail passenger service facility or  
29 related services and activities.

30 Section 6. Cooperation With Other Governments and Private

1 Interests.--(a) The department is directed to administer all  
2 projects under this act with such flexibility as to promote and  
3 encourage full cooperation and financial participation of  
4 Federal, State and local governments, agencies and  
5 instrumentalities, as well as private interests, so as to result  
6 in as effective and economical a program as possible. State  
7 financed projects as authorized under this act shall require  
8 local financial participation to the extent deemed reasonable by  
9 the secretary as expressed by rule or regulation. The department  
10 shall respond to the requirements of the Regional Rail  
11 Reorganization Act of 1973 for the preservation of railroad  
12 service by means of operating assistance or acquisition, and  
13 shall follow planning requirements related thereto. The  
14 department shall recognize the applicable provisions of the  
15 Regional Rail Reorganization Act of 1973 for the protection of  
16 employees who may be adversely affected by provision of the  
17 Regional Rail Reorganization Act of 1973, and shall insure  
18 compliance with such provisions.

19 (b) The department is hereby authorized to enter into  
20 agreements providing for mutual cooperation between it and any  
21 Federal agency and any transportation organization, or  
22 transportation company, or one or more of them, in any or all  
23 projects, including joint applications for Federal grants.

24 (c) It is the purpose and intent of this act to authorize  
25 the department to do any and all other things necessary or  
26 desirable to secure the financial aid or cooperation of any of  
27 the department's projects, and to do and perform all things  
28 which may be required by any statute of the United States of  
29 America or by the lawful requirements of any Federal agency  
30 authorized to administer any program of Federal aid to

1 transportation.

2 Section 7. Contracts; Procurement and Sale of Property;  
3 Competition in Award of Contracts.--(a) The department shall  
4 have power and authority to enter into contracts and to make  
5 joint contracts of purchase with any transportation organization  
6 and/or company in any manner complying with the law applicable  
7 to such transportation organization and/or company. The  
8 department shall also have power and authority to make contracts  
9 for the improvement of any rights-of-way, roadbeds or rolling  
10 stock, or electrification systems, or other transportation  
11 systems, or parts thereof, constituting a project without  
12 advertisement for competitive bids, where such work is to be  
13 done at cost by the personnel and with the facilities of the  
14 local transportation organization or company on whose system  
15 such property is to be used. The department may sell, transfer,  
16 or lease all, or any part, of the rail properties and other  
17 property acquired under the provisions of this act to any  
18 responsible person, firm, or corporation for continued operation  
19 of a railroad, or other public purpose, provided that approval  
20 for the continued operation, or other public purpose, is granted  
21 by the Interstate Commerce Commission of the United States,  
22 whenever approval is required.

23 (b) Except in the purchase of projects from a transportation  
24 organization, or in the purchase of unique articles, or articles  
25 which, for any other reason, cannot be obtained in the open  
26 market, and except as herein specifically provided, competitive  
27 bids shall be secured before any purchase or sale, by contract  
28 or otherwise, is made or before any contract is awarded for  
29 construction, alterations, supplies, equipment, repairs or  
30 maintenance or for rendering any services to the department

1 other than professional services; and the purchase shall be made  
2 from or the contract shall be awarded to the lowest responsible  
3 bidder; or a sale to the highest responsible bidder. No purchase  
4 of any unique article or other articles which cannot be obtained  
5 in the open market shall be made without express approval of the  
6 secretary where the amount involved is in excess of \$5,000.

7 (c) Except as herein specifically provided otherwise, all  
8 purchases and sales in excess of \$5,000 shall be awarded after  
9 advertising in a newspaper of general circulation in the area  
10 where the property is to be used not less than two weeks prior  
11 to the bid opening. Bids shall be publicly opened and read aloud  
12 at a date, time and place designated in the invitation to bid.  
13 In all cases of purchases or sales in excess of \$5,000  
14 authorized hereunder to be made without competitive bidding  
15 except purchases from or sales to a transportation organization  
16 or contracts with a transportation company pursuant to  
17 subsection (a), invitations to bid shall be sent not less than  
18 one week prior to the bid opening to at least three potential  
19 bidders who are qualified technically and financially to submit  
20 bids, or in lieu thereof a memorandum shall be kept on file  
21 showing that less than three potential bidders so qualified  
22 exist in the market area within which it is practicable to  
23 obtain bids.

24 (d) Purchases or sales under \$5,000 may be negotiated with  
25 or without competitive bidding under sound procurement  
26 procedures as promulgated and established by the secretary.

27 (e) Competitive bidding requirements may be waived if it is  
28 determined in such manner as the secretary may, by regulation,  
29 provide that an emergency directly and immediately affecting  
30 customer service, or public health, safety or welfare requires

1 immediate delivery of supplies, materials, or equipment:

2 Provided, however, That a record of circumstances explaining the  
3 emergency shall be submitted to the secretary and kept on file.

4 (f) Contracts for the sale or lease of property owned by the  
5 department shall be awarded after competitive bidding as shown  
6 in subsection (c), except where a contract is entered into with  
7 any political subdivision or agency or instrumentality of the  
8 Commonwealth, transportation organization, transportation  
9 company, or Federal agency.

10 (g) Requirements shall not be split into parts for the  
11 purpose of avoiding the provisions of this section.

12 (h) The department shall have the right to reject any or all  
13 bids or parts of any or all bids, whenever, in the opinion of  
14 the secretary, such rejection is necessary for the protection of  
15 the interest of the Commonwealth. In every such case, a record  
16 shall be made, setting forth the reason for such rejection which  
17 record shall thereafter be kept on file.

18 (i) The secretary shall adopt rules and regulations to  
19 effectuate the provisions of this section.

20 (j) The secretary shall have the power to accept the  
21 assignment from any transportation organization or company of  
22 all or any interest in any lawfully made contract for the  
23 procurement and purchase of any asset deemed necessary or  
24 desirable by the secretary in connection with any project.

25 Section 8. Power to Acquire Property.--(a) The secretary  
26 shall have the power to acquire by purchase, lease, eminent  
27 domain proceedings, gift or otherwise all or any property, in  
28 such estate as he shall determine, for promoting the purposes of  
29 this act, including any property of a public utility, except  
30 that no line, route, franchise, certificate of public

1 convenience, or certificate of authorization of a transportation  
2 company, or interest in any thereof shall be acquired without  
3 the consent of such company. All political subdivisions and  
4 corporations are hereby authorized to donate property to the  
5 department.

6 (b) Eminent domain proceedings shall be in accordance with  
7 the act of June 22, 1964 (Sp. Sess., P.L.84, No.6), known as the  
8 "Eminent Domain Code," and the department is empowered to join  
9 with any transportation organization in obtaining any property  
10 through such eminent domain proceedings.

11 Section 9. Rules and Regulations of the Department.--In  
12 order to effectuate and enforce the provisions of this act, the  
13 department is authorized to promulgate necessary rules and  
14 regulations and prescribe conditions and procedures in order to  
15 assure compliance in carrying out the purposes for which grants  
16 may be made hereunder. Such rules and regulations shall also  
17 provide for the observance of the relevant safety standards of  
18 any regulatory body having jurisdiction to promulgate such  
19 standards, but the department shall not be authorized hereby to  
20 do anything or suffer or permit any action which will violate  
21 any agreement with a transportation organization or company or  
22 any Federal agency, or impair, suspend, contract, enlarge or  
23 extend, or affect in any manner the powers of the Pennsylvania  
24 Public Utility Commission, or of the Interstate Commerce  
25 Commission, which by law are applicable to the transportation  
26 organization or company involved.

27 Section 10. Grants by Transportation Organizations.--Any  
28 transportation organization shall be and is hereby authorized to  
29 make annual grants from current revenues in order to participate  
30 in rural and intercity common carrier surface transportation

1 projects and to enter into long-term agreements providing for  
2 the payment of the same. The obligation of a political  
3 subdivision under any such agreement shall not be considered to  
4 be a part of its indebtedness, nor shall such obligation be  
5 deemed to impair the status of any indebtedness of such  
6 political subdivision which would otherwise be considered as  
7 self-sustaining.

8       Section 11. Limitation on Decisions; Findings and  
9 Regulations Made by the Secretary.--All decisions, findings and  
10 regulations made by the secretary pursuant to this act shall be  
11 for the purpose of this act only and shall not constitute  
12 evidence before any regulatory body of this Commonwealth or any  
13 other jurisdiction.

14       Section 12. Constitutional Construction.--The provisions of  
15 this act shall be severable, and if any of the provisions  
16 thereof shall be held unconstitutional, such decisions shall not  
17 affect the validity of any of the remaining provisions of this  
18 act. It is hereby declared as the legislative intent that this  
19 act would have been adopted had such unconstitutional provision  
20 not been included herein.

21       Section 13. Effective Date.--This act shall take effect  
22 immediately.