

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 298 Session of  
1999

INTRODUCED BY CARN, ROBINSON, WALKO, TRELLO, YOUNGBLOOD AND  
M. COHEN, FEBRUARY 3, 1999

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 3, 1999

AN ACT

1 Creating the Pennsylvania Sports Facility Authority and the  
2 Pennsylvania Sports Facility Authority Board; providing for  
3 powers and duties of the board, for a right of first refusal  
4 prior to relocation of certain franchises and for regulation  
5 of ticket prices; imposing conditions upon the use of public  
6 funds for construction of professional sports facilities;  
7 requiring certain professional sports franchises to conduct  
8 community impact studies and develop community benefit plans  
9 in conjunction with the construction of certain athletic  
10 facilities; providing for naming of publicly funded sports  
11 facilities in certain municipalities and for education and  
12 community development; regulating admission to publicly  
13 funded sports facilities; conferring powers and duties on the  
14 Department of Community and Economic Development; requiring  
15 publicly funded construction of sports facilities to  
16 guarantee employment to public assistance recipients;  
17 conferring powers and duties upon the Department of Labor and  
18 Industry and the Department of Public Welfare; and imposing  
19 penalties.

20 The General Assembly of the Commonwealth of Pennsylvania  
21 hereby enacts as follows:

22 Section 1. Short title.

23 This act shall be known and may be cited as the Sports  
24 Facility Authority Act.

25 Section 2. Definitions.

26 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Authority." The Pennsylvania Sports Facility Authority  
4 created in section 3.

5 "Board." The Pennsylvania Sports Facility Authority Board  
6 created in section 3.

7 "Community benefit and participation plan." A plan for  
8 participation by neighborhoods and communities within a ten-mile  
9 radius of a facility in terms of employment, contracting and  
10 other economic and noneconomic opportunity.

11 "Community impact study." A study to determine the impact of  
12 a facility on neighborhoods and communities within a ten-mile  
13 radius in terms of the environment, commercial development, job  
14 creation and community opportunity.

15 "Department." The Department of Community and Economic  
16 Development of the Commonwealth.

17 "Facility." A place owned or leased by a sports organization  
18 and at which professional sporting events are conducted by a  
19 sports organization, including the playing surface thereof, the  
20 parking facilities attendant thereto and any other necessary  
21 supporting structures.

22 "Funding entity." The Commonwealth or a political  
23 subdivision.

24 "Playing surface." The surface on which an athletic event is  
25 played.

26 "Public access." Access to professional sports events in the  
27 form of affordable ticket prices or significant free broadcast  
28 television coverage or both.

29 "Public funds." Money received from a funding entity.

30 "Sports organization." A sole proprietorship, partnership,

1 association or corporation that owns a professional sports  
2 franchise and exhibits events involving that professional sports  
3 franchise at a facility located in this Commonwealth.

4 Section 3. Sports Facility Authority.

5 (a) Creation of authority.--A body corporate and politic  
6 known as the Pennsylvania Sports Facility Authority is hereby  
7 created as a public corporation and government instrumentality.

8 (b) Creation of board.--The authority shall be governed by a  
9 board known as the Pennsylvania Sports Facility Authority Board,  
10 which shall consist of the following members, one of whom shall  
11 be designated chairperson by the Governor:

12 (1) The State Treasurer or a designee.

13 (2) The Auditor General or a designee.

14 (3) The Secretary of Community and Economic Development  
15 or a designee.

16 (4) The Secretary of the Budget or a designee.

17 (5) An appointee of the Attorney General who shall be  
18 either the Director of the Public Protection Division, the  
19 Director of the Bureau of Consumer Protection or the Consumer  
20 Advocate.

21 (6) An appointee of the President pro tempore of the  
22 Senate.

23 (7) An appointee of the Minority Leader of the Senate.

24 (8) An appointee of the Speaker of the House of  
25 Representatives.

26 (9) An appointee of the Minority Leader of the House of  
27 Representatives.

28 (c) Term of office.--Board members other than elected  
29 officials and cabinet officers shall serve four-year terms.

30 (d) Compensation.--Board members shall receive no

1 compensation but shall be entitled to reimbursement for actual  
2 and necessary expenses incurred in the performance of their  
3 duties.

4 (e) Executive director.--The board shall appoint an  
5 executive director who shall serve at the pleasure of the board.

6 (f) Quorum.--No action of the board shall occur in the  
7 absence of a quorum, which shall consist of five members. Except  
8 as otherwise provided, a vote of a majority of the members  
9 present shall be required for any action.

10 (g) Powers and duties.--The board may:

11 (1) Make bylaws governing the management and regulation  
12 of its affairs and the affairs of the authority.

13 (2) Enter into contracts of all kinds and execute  
14 instruments necessary or appropriate to the management of its  
15 affairs and the affairs of the authority.

16 (3) Hire or appoint officers, agents and employees and  
17 fix their compensation, if any.

18 (4) Adopt, use and alter at will a corporate seal.

19 (5) Acquire and hold in the name of the authority real,  
20 personal and intangible property or an interest therein,  
21 including, but not limited to, professional sports franchises  
22 and facilities.

23 (6) Borrow money by issuing notes and bonds.

24 (7) Invest any funds held which are not required for  
25 immediate expenditure or for operation of the authority.

26 (8) Perform any act necessary or convenient to carry out  
27 the functions, duties and responsibilities assigned by this  
28 act.

29 (9) Examine the level of public access to professional  
30 sports events held in facilities constructed with, renovated

1 with or supported to any extent by public funds.

2 (10) Determine and report to the Governor whether there  
3 is adequate public access to professional sports events held  
4 in facilities constructed with, renovated with or supported  
5 to any extent by public funds.

6 (h) Right of first refusal.--The authority shall have a  
7 right of first refusal to purchase sports organizations which  
8 are being sold. Within seven days after receiving a bona fide  
9 purchase offer for a sports organization, the owner thereof  
10 shall send a copy of the offer to the authority, after which the  
11 authority shall have 30 days in which to determine whether to  
12 exercise its right of first refusal.

13 (i) Exercise of right.--The authority shall have one year  
14 from notification of a bona fide purchase offer in which to  
15 procure financing, and the sports organization may not be moved  
16 outside this Commonwealth while financing is being procured.

17 (j) Funding sources.--The authority's sources of funding  
18 shall include the following:

19 (1) Ten percent of the gross amount of all luxury box,  
20 parking and concessions revenues received by sports  
21 organizations as a result of sports events held in this  
22 Commonwealth shall be forwarded to the authority.

23 (2) Ten percent of the gross amount of all television  
24 and radio revenues received by sports organizations as a  
25 result of sports events held in this Commonwealth shall be  
26 forwarded to the authority.

27 (3) Five percent of the gross amount of all revenues  
28 generated as a result of nonsporting events held at  
29 facilities.

30 (4) The public share of any proceeds generated from the

1 sale of naming rights of a facility shall be forwarded to the  
2 authority.

3 (5) A surcharge on the sale of tickets.

4 (k) Funding disposition.--The authority's funds shall be  
5 disbursed after meeting operating expenses as follows:

6 (1) Seventy percent of the luxury box, parking and  
7 concessions revenues, television and radio revenues, proceeds  
8 from the sale of naming rights and nonsporting event revenues  
9 received by the authority shall be forwarded to the school  
10 district in which the facility generating the revenues is  
11 located.

12 (2) Thirty percent of the luxury box, parking and  
13 concessions revenues, television and radio revenues, proceeds  
14 from the sale of naming rights and nonsporting event revenues  
15 received by the authority shall be forwarded to the  
16 municipality where the facility generating the revenues is  
17 located.

18 (l) Annual report.--The authority shall submit an annual  
19 report of its activities to the Governor and General Assembly no  
20 later than 30 days after the end of the calendar year to which  
21 the report applies.

#### 22 Section 4. Public funds.

23 (a) General rule.--Public funds may not be expended to  
24 construct or renovate a facility unless the sports organization  
25 that owns or leases the facility agrees in a writing approved by  
26 the authority in advance:

27 (1) to provide a minimum of 180 days' written notice  
28 prior to relocating outside of this Commonwealth;

29 (2) to grant a right of first refusal which permits  
30 submission of a proposal to prevent relocation of the team

1 outside of this Commonwealth; and

2 (3) to forfeit the team name, team logo and team colors  
3 upon relocation outside of this Commonwealth.

4 (b) Refund.--Upon relocation of the sports organization, any  
5 public funds used to construct or renovate a facility shall be  
6 refunded as follows:

7 (1) Fifty percent to the department for use for  
8 community and economic development in the region where the  
9 facility is located.

10 (2) Fifty percent to the local municipality to be  
11 dedicated to public education, community development and work  
12 force development.

13 Section 5. Expenditure of public funds prohibited.

14 Public funds may not be expended to construct a facility  
15 unless the sports organization that will own or lease the  
16 facility has completed a community impact study and implemented  
17 a community benefit and participation plan approved by the  
18 department.

19 Section 6. Community advisory group.

20 The community benefit and participation plan required by  
21 section 5 shall be developed and implemented with the assistance  
22 of a community advisory group formed by the sports organization  
23 and comprised of residents and other representative entities  
24 located within a ten-mile radius of the proposed facility.

25 Section 7. Public records.

26 Copies of the results of the community impact study and the  
27 community benefit and participation plan approved by the  
28 department shall be filed with the department and county where  
29 the proposed facility will be located and shall be available  
30 upon request for public inspection.

1 Section 8. Naming.

2 (a) General rule.--Except as set forth in subsection (b), a  
3 facility or a playing surface in the facility shall be named for  
4 the Commonwealth, an appropriate public figure, landmark,  
5 natural resource or host municipality if all of the following  
6 apply:

7 (1) The facility is located in a municipality.

8 (2) The facility is constructed or renovated with the  
9 use of money from the Commonwealth.

10 (b) Authorization of sale.--The department may sell the  
11 naming rights to the facility or a playing surface in the  
12 facility.

13 (c) Use of funds.--Money from a sale under subsection (a)  
14 shall be dedicated to public education and community development  
15 in the host municipality and surrounding region.

16 Section 9. Seating.

17 (a) Requirement.--If public funds are expended to construct  
18 or renovate a facility, all of the following shall apply:

19 (1) At least 10% of the seating at the facility shall be  
20 reserved for sale at a reasonable price set by the department  
21 to facilitate enjoyment of the facility by individuals who  
22 reside in the municipality where the facility is located.

23 (2) The department shall ensure that the operation of  
24 the facility is in compliance with the Americans with  
25 Disabilities Act (Public Law 101-336, 104 Stat. 327).

26 (b) Penalty.--A sports organization that intentionally,  
27 recklessly or negligently violates subsection (a) shall be  
28 subject to an administrative penalty of not more than \$5,000.

29 This subsection is subject to 2 Pa.C.S. Ch. 5 Subch. A (relating  
30 to practice and procedure of Commonwealth agencies) and Ch. 7

1 Subch. A (relating to judicial review of Commonwealth agency  
2 action).

3 Section 10. Public funds.

4 (a) Requirement.--Except as set forth in subsection (b), if  
5 public funds are expended to construct, renovate or operate a  
6 facility, all of the following shall apply:

7 (1) At least 15% of the labor cost of the construction,  
8 renovation or operation shall be used to provide employment  
9 for individuals who are eligible for assistance under section  
10 432(3) of the act of June 13, 1967 (P.L.31, No.21), known as  
11 the Public Welfare Code.

12 (2) At least 15% of the labor cost of the construction,  
13 renovation or operation shall be used to provide employment  
14 for individuals who reside within ten miles of the facility.

15 (3) Persons employed in the permanent operation of a  
16 facility shall receive a base salary of 150% of the minimum  
17 wage. Management and playing employees are exempt from this  
18 provision.

19 (b) Exception.--

20 (1) If the person bearing the labor cost establishes to  
21 the satisfaction of the Department of Public Welfare that  
22 there is an insufficient number of qualified individuals  
23 under subsection (a)(1) to meet the required percentage,  
24 employment shall only be provided for the qualified  
25 individuals.

26 (2) If the person bearing the labor cost establishes to  
27 the satisfaction of the Department of Labor and Industry that  
28 there is an insufficient number of qualified individuals  
29 under subsection (a)(2) to meet the required percentage,  
30 employment shall only be provided for the qualified

1 individuals.

2 (c) Remedy.--A person that, intentionally, recklessly or  
3 negligently violates this section shall be subject to a civil  
4 penalty in the amount of 16.5% of the labor cost of the  
5 construction or renovation.

6 Section 11. Restrictions.

7 (a) Default.--The sports organization may not be delinquent  
8 in or in default of any existing private or public loan unless  
9 they have entered into a workout agreement satisfactory to the  
10 respective creditors and are fully in compliance with the terms  
11 of that agreement.

12 (b) Current taxes.--The sports organization and its  
13 principals must be current in payment of all applicable State  
14 and local taxes unless they have entered into a workout  
15 agreement satisfactory to the respective taxing authority and  
16 are fully in compliance with the terms of that agreement.

17 (c) Conflicts of interest.--The sports organization, its  
18 principals and managerial officers must disclose any potential  
19 conflict of interest with any officials or employees of the  
20 department or any officers or employees of any public entity  
21 that is submitting an application on behalf of the borrower.

22 (d) Out-of-State teams.--Sports organizations attempting to  
23 relocate to Pennsylvania shall not be eligible for this program.

24 (e) Restriction.--The sports organization may not receive  
25 additional construction funding for a period of 20 years.

26 Section 12. Other laws applicable to authority.

27 (a) Legal matters.--The authority shall be considered to be  
28 a Commonwealth agency for purposes of the act of October 15,  
29 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

30 (b) Contracts.--The authority shall comply with competitive

1 bidding requirements imposed upon, and contract compliance plans  
2 used by, the Department of General Services of the Commonwealth.

3 (c) Steel procurement.--Every project application shall  
4 contain a certification that the applicant shall, in every  
5 contract for construction, expansion or renovation, comply with  
6 the provisions of the act of March 3, 1978 (P.L.6, No.3), known  
7 as the Steel Products Procurement Act.

8 Section 13. Rules and regulations.

9 The department is authorized to adopt rules and regulations  
10 necessary to implement the provisions of this act.

11 Section 14. Effective date.

12 This act shall take effect July 1, 1999, or immediately  
13 whichever is later.