

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2149 Session of  
1999

INTRODUCED BY PIPPY, PRESTON, COSTA, DALEY, FRANKEL, GIGLIOTTI,  
HABAY, LAUGHLIN, MAHER, MARKOSEK, MAYERNIK, MICHLOVIC, ORIE,  
PETRARCA, PETRONE, PISTELLA, READSHAW, ROBINSON, RUFFING,  
STEVENSON, TRICH, VAN HORNE AND WALKO, DECEMBER 13, 1999

SENATOR PUNT, COMMUNITY AND ECONOMIC DEVELOPMENT, IN SENATE, AS  
AMENDED, JUNE 6, 2000

AN ACT

1 Amending the act of December 14, 1992 (P.L.818, No.133),  
2 entitled "An act establishing the Port of Pittsburgh  
3 Commission; providing for its powers and duties; and making a  
4 repeal," further providing for specific powers of the  
5 commission; providing for economic development projects; and  
6 further providing for rights of obligees and for contracts  
7 and purchases.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Section 5(b)(23) of the act of December 14, 1992  
11 (P.L.818, No.133), known as the Port of Pittsburgh Commission  
12 Act, is amended to read:

13 Section 5. Powers.

14 \* \* \*

15 (b) Specific powers.--In addition to the general powers  
16 described in subsection (a), the commission is granted and shall  
17 have and may exercise, without limiting the generality of the  
18 purposes of this act, the following specific rights and powers:

1           \* \* \*

2           (23) [To] Subject to the provisions of section 5.1, to  
3       fix, alter, charge and collect fees, rates, rentals and other  
4       charges for port facilities and port-related projects of the  
5       commission at reasonable rates to be determined exclusively  
6       by the commission, subject to appeal, for the purpose of  
7       providing for the payment of the expenses of the commission,  
8       the acquisition, construction, improvement, repair and  
9       maintenance of the port facilities, port-related projects and  
10      properties of the commission and the payment of the principal  
11      and interest on obligations of the commission and to comply  
12      fully with the terms and provisions of any agreements made  
13      with the purchasers or holders of any such obligations.

14          \* \* \*

15      Section 2. The act is amended by adding a section to read:  
16      Section 5.1. Economic development projects.

17      When the commission undertakes the development of a port  
18      facility, port-related project or recreation project and the  
19      commission agrees to lease, lease with option or contract to  
20      purchase, sell or otherwise make available to a third party the  
21      port facility, port-related project or recreation project, the  
22      third party shall pay the commission an amount that is  
23      sufficient to pay all of the principal and interest on any  
24      bonds, notes or other evidence of indebtedness issued by the  
25      commission to finance the port facility, port-related project or  
26      recreation project, an amount which the board finds to be  
27      reasonable in light of the economic benefits that will result  
28      from the project, or an amount which is reasonable and proper  
29      under the circumstances. Bonds, notes or other evidence of  
30      indebtedness issued by the commission with respect to a port

1 facility, port-related project or recreation project under this  
2 section shall be limited obligations of the commission payable  
3 solely out of any revenues received by the commission with  
4 respect to the port facility, port-related project or recreation  
5 project, including, but not limited to, the payments received  
6 from the third party under this section, and the interest of the  
7 commission in the port facility, port-related project or  
8 recreation project, if any. The provisions of sections 5(b)(23),  
9 7(c) and ~~11(e)~~ 11(A) shall not apply to a port facility, port- <—  
10 related project or recreation project developed under this  
11 section.

12 Section 3. Sections 7(c) and 11 of the act are amended to  
13 read:

14 Section 7. Rights and remedies of obligees.

15 \* \* \*

16 (c) Restrictions.--[Nothing] Except as otherwise provided in  
17 section 5.1, nothing in this section or any other section of  
18 this act shall authorize any receiver appointed pursuant to this  
19 act for the purpose of operating and maintaining any port  
20 facilities, port-related projects or property of the commission  
21 to sell, assign, mortgage or otherwise dispose of any of the  
22 assets of whatever kind or character belonging to the  
23 commission. It is the intention of this act to limit the powers  
24 of such receiver to the operation and maintenance of the port  
25 facilities, port-related projects and property of the commission  
26 as the court shall direct, and no holder or holders of bonds of  
27 the commission nor any trustee or other obligee shall ever have  
28 the right in any suit, action or proceeding, at law or in  
29 equity, to compel a receiver nor shall any receiver ever be  
30 authorized or any court be empowered to direct the receiver to

1 sell, assign, mortgage or otherwise dispose of any assets of  
2 whatever kind or character belonging to the commission.

3 \* \* \*

4 Section 11. Contracts and purchases.

5 (a) Building and construction contracts.--All construction,  
6 reconstruction, repairs or work of any nature made by the  
7 commission, where the entire cost, value or amount of such  
8 construction, reconstruction, repairs or work, including labor  
9 and materials, exceeds \$10,000, except construction,  
10 reconstruction, repairs or work done by employees of the  
11 commission or by labor supplied under agreement with the Federal  
12 Government, the Commonwealth or political subdivisions, with  
13 supplies and material purchased as provided in this section,  
14 shall be done only under contract or contracts to be entered  
15 into by the commission with the lowest responsible bidder upon  
16 proper terms after due public notice has been given asking for  
17 competitive bids as provided in this section. The commission  
18 shall have the right to reject any or all bids or select a  
19 single item from any bid notwithstanding the provisions of this  
20 section. No contract shall be entered into for construction or  
21 improvement or repair of any project or portion thereof, unless  
22 the contractor provides sufficient surety or sureties approved  
23 by the commission, and in an amount fixed by the commission, for  
24 the performance of the contract, and has complied with the  
25 provisions of the act of December 20, 1967 (P.L.869, No.385),  
26 known as the Public Works Contractors' Bond Law of 1967. All  
27 such contracts shall provide that the person or corporation  
28 entering into such contract with the commission will pay for all  
29 materials furnished and services rendered for the performance of  
30 the contract and that any person or corporation furnishing such

1 materials or rendering such services may maintain an action to  
2 recover for the same against the obligor in the undertaking, as  
3 though such person or corporation was named therein, provided  
4 that the action is brought within one year after the time the  
5 cause of action accrued and without prejudice to any other  
6 rights or remedies available pursuant to statute or law. Nothing  
7 in this section shall be construed to limit the power of the  
8 commission to construct, repair or improve any port facility,  
9 port-related project, property or project, or portion thereof,  
10 of the commission, or any addition, betterment or extension  
11 thereto, directly by the officers and employees of the  
12 commission. Nothing in this section or in any other law of this  
13 Commonwealth WITH RESPECT TO CONSTRUCTION, RECONSTRUCTION, <—  
14 REPAIRS OR WORK OF ANY NATURE MADE BY THE COMMISSION shall apply  
15 to a port facility, port-related project or recreation project  
16 developed under section 5.1.

17 (b) Supplies and materials.--All supplies and materials  
18 costing \$10,000 or more which are to be acquired directly by the  
19 commission shall not be purchased unless the commission has  
20 published notice[, at least ten days before the award of any  
21 contract or the making of any purchase, in a newspaper of  
22 general circulation within the port district and in the  
23 Pennsylvania Bulletin] according to the provisions of 62 Pa.C.S.  
24 (relating to procurement). The commission shall accept the  
25 lowest bid or bids from a responsible bidder, provided that the  
26 kind and quality of materials are equal. The commission shall  
27 have the right to reject any or all bids or select a single item  
28 from any bid. The provisions of this subsection shall not apply  
29 to the purchase of any supplies and materials which are unique  
30 and which cannot be obtained in the open market. Nothing in this

1 section or in any other law of this Commonwealth WITH RESPECT TO <—  
2 THE PURCHASE OF SUPPLIES AND MATERIALS shall apply to a port  
3 facility, port-related project or recreation project developed  
4 under section 5.1.

5 (c) Exception.--Nothing in this section or in any other law  
6 of this Commonwealth shall preclude the negotiation and  
7 execution of contracts for management, licensing or leasing of  
8 port facilities, port-related projects or any part thereof by  
9 the commission upon the approval of a majority of the members of  
10 the board. Notice and public advertisement provisions of this  
11 section for the purchase of supplies and materials may be waived  
12 whenever the commission determines that an emergency exists and  
13 that such supplies and materials must be purchased by the  
14 commission immediately. ~~The exception provided for in this~~ <—

15 ~~subsection shall not apply to a port facility, port related~~  
16 ~~project or recreation project under section 5.1. OR WHENEVER THE~~ <—  
17 CONTRACT INVOLVES A PORT FACILITY, PORT-RELATED PROJECT OR  
18 RECREATIONAL PROJECT UNDER SECTION 5.1.

19 (d) Professional services.--Nothing in this section or any  
20 other law shall require the commission to competitively bid  
21 legal, accounting, architectural design, engineering,  
22 concession, construction management or other professional  
23 services required by the commission, provided that no contract,  
24 other than a contract relating to a port facility, port-related  
25 project or recreation project developed under section 5.1, shall  
26 be executed by or on behalf of the commission for such services  
27 without first having advertised [in a newspaper of general  
28 circulation and in the Pennsylvania Bulletin a request for  
29 proposals for such services] according to the provisions of 62  
30 Pa.C.S.

1       Section 4.   This act shall take effect in 60 days.