

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2802 Session of  
2004

INTRODUCED BY GEIST, VEON, McCALL, BALDWIN, BARD, BIANCUCCI,  
BOYD, BUNT, DERMODY, J. EVANS, FRANKEL, GRUCELA, HARHAI,  
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T. STEVENSON, TANGRETTI AND WEBER, JULY 3, 2004

REFERRED TO COMMITTEE ON TRANSPORTATION, JULY 3, 2004

AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania  
2 Consolidated Statutes, adding provisions relating to rail  
3 freight preservation, improvement and infrastructure  
4 security; establishing the Pennsylvania Railroad Authority;  
5 imposing penalties; making an appropriation; and making a  
6 related repeal.

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

9 Section 1. Title 74 of the Pennsylvania Consolidated  
10 Statutes is amended by adding a part to read:

11 PART V

12 RAILROADS

13 Chapter

14 95. Rail Freight Preservation, Improvement and  
15 Infrastructure Security

16 CHAPTER 95

17 RAIL FREIGHT PRESERVATION, IMPROVEMENT AND

18 INFRASTRUCTURE SECURITY

19 Sec.

- 1 9501. Definitions.
- 2 9502. Rail Freight Advisory Committee.
- 3 9503. Comprehensive rail freight study.
- 4 9504. Program authority.
- 5 9505. Contracts.
- 6 9506. Cooperation with other governments and private
- 7 interests.
- 8 9507. Grants and loans by transportation organizations or
- 9 municipalities.
- 10 9508. Rental schedule for occupations of rail property.
- 11 9509. Pennsylvania Railroad Authority.
- 12 9510. Rail transportation security risk assessment.
- 13 9511. Operating railroad locomotives in reverse.
- 14 9512. Railroad trespass.
- 15 9513. Signs and emergency notification system.
- 16 9514. Emergency response training.
- 17 9515. Railroad employee identification.
- 18 9516. Regulations.

19 § 9501. Definitions.

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

23 "Accelerated maintenance." The replacing of ties and other  
24 track and structural materials in quantities as to be sufficient  
25 functionally to restore a railroad line to the level necessary  
26 for compliance with Federal Railroad Administration Class I  
27 Track Safety Standards for five years after completion of a  
28 project.

29 "Board." The governing body of the Pennsylvania Railroad  
30 Authority.

1 "Capital project." Acquisition of property, the equipping,  
2 furnishing, constructing, reconstructing, rehabilitating or  
3 improving rail transportation systems or facilities. The term  
4 does not include accelerated maintenance.

5 "Class I railroad." As defined under 49 CFR Pt. 1201  
6 (relating to railroad companies).

7 "Class II railroad." As defined under 49 CFR Pt. 1201  
8 (relating to railroad companies).

9 "Class III railroad." As defined under 49 CFR Pt. 1201  
10 (relating to railroad companies).

11 "Committee." The Rail Freight Advisory Committee created  
12 under this chapter.

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

15 "Director." The Director of the Pennsylvania Office of  
16 Homeland Security.

17 "Municipality." Any county, city, borough, incorporated  
18 town, township, home rule municipality, optional plan  
19 municipality, optional form municipality or similar general  
20 purpose unit of government, which may hereafter be created by  
21 law.

22 "PEMA." The Pennsylvania Emergency Management Agency.

23 "Rail freight transportation services, systems and  
24 facilities." Transportation provided by any and all persons or  
25 corporations holding out, offering or undertaking, directly or  
26 indirectly, service for compensation to the public for the  
27 transportation of property by rail. The term "systems" shall  
28 include any lines, rail corridors or properties necessary in  
29 providing rail freight transportation services, including  
30 easements or other rights-of-way. The term "facilities" shall

1 include freight cars, locomotives, wires, poles and equipment  
2 for electrification of rail lines, rails, tracks, roadbeds,  
3 elevated structures, buildings, stations, terminals, loading  
4 docks, sidetracks, shelters, parking areas, tunnels or similar  
5 items as may be necessary in the provision of rail freight  
6 transportation services.

7 "Railroad." Any form of nonhighway ground transportation  
8 that runs on rails or electromagnetic guideways, including, but  
9 not limited to:

10 (1) Commuter or other short-haul railroad passenger  
11 service in a metropolitan or suburban area.

12 (2) High-speed ground transportation systems that  
13 connect metropolitan areas, but not rapid transit operations  
14 in an urban area that are not connected to the general  
15 railroad system of transportation.

16 "Railroad carrier." A person, including, but not limited to,  
17 an owner or operator providing railroad transportation.

18 "Railroad company." Any person, firm or corporation  
19 rendering common carrier rail freight transportation service in  
20 this Commonwealth, under authorization from the Pennsylvania  
21 Public Utility Commission or the Surface Transportation Board,  
22 where authorization is required by law.

23 "Right-of-way." The track or roadbed owned, leased or  
24 operated by a railroad carrier which is located on either side  
25 of its tracks and which is readily recognizable to a reasonable  
26 person as being railroad property or is reasonably identified as  
27 such by fencing or appropriate signs.

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

30 "State Infrastructure Bank." The fund administered by the

1 Department of Transportation established under section 2015 of  
2 the act of April 9, 1929 (P.L.177, No.175), known as The  
3 Administrative Code of 1929 or any successor organization.

4 "State Transportation Commission." The commission under  
5 section 2011 of the act of April 9, 1929 (P.L.177, No.175),  
6 known as The Administrative Code of 1929, or any successor  
7 organization.

8 "Transportation organization." Any municipal authority, mass  
9 transportation, port or other authority, or any combination of  
10 two or more such entities, now existing or hereafter organized  
11 under the laws of this Commonwealth, or under an interstate  
12 compact, empowered to render rail freight transportation service  
13 or assist in rendering rail freight transportation service in  
14 this Commonwealth, even though it may also render rail freight  
15 transportation service in adjacent states.

16 "Yard." A system of parallel tracks, crossovers and switches  
17 where railroad cars are switched and made up into trains and  
18 where railroad cars, locomotives and other rolling stock are  
19 kept when not in use or when awaiting repairs.

20 § 9502. Rail Freight Advisory Committee.

21 (a) Creation.--There is hereby created a Rail Freight  
22 Advisory Committee, which shall consist of the following  
23 members:

24 (1) The Secretary of Transportation, ex officio.

25 (2) The Secretary of Community and Economic Development,  
26 ex officio.

27 (3) The chairman of the Pennsylvania Public Utility  
28 Commission, ex officio.

29 (4) The chairman and minority chairman of the  
30 Transportation Committee of the Senate.

1           (5) The chairman and minority chairman of the  
2           Transportation Committee of the House of Representatives.

3           (6) Twenty-five members of the public representing the  
4           areas of concern specified who shall have extensive  
5           experience and knowledge of rail freight transportation  
6           activities throughout this Commonwealth, to be appointed by  
7           the Governor as follows:

8                 (i) Three representatives of Class I railroad  
9                 companies.

10                (ii) Three representatives of regional railroads.

11                (iii) Three representatives of short line railroads.

12                (iv) Six representative rail shippers, each to  
13                represent one of the following areas:

14                   (A) Coal.

15                   (B) Steel.

16                   (C) Lumber.

17                   (D) Intermodal.

18                   (E) Chemical.

19                   (F) Food products/agriculture.

20                (v) Three representatives of organized labor, each  
21                to represent one of the following areas:

22                   (A) Steel or coal labor.

23                   (B) Intermodal labor.

24                   (C) Railway labor.

25                (vi) One representative from the Pennsylvania  
26                Chamber of Business and Industry.

27                (vii) Two representatives of regional/local economic  
28                development groups.

29                (viii) Two representatives of regional/local  
30                planning commissions.

1           (ix) One representative of rail  
2           contractors/suppliers.

3           (x) One representative of a railroad passenger  
4           provider.

5 Each member shall designate a representative to serve in his  
6 stead. A member shall notify the chairman in writing of the  
7 designation.

8       (b) Terms of appointees.--The term of all members of the  
9 committee appointed by the Governor shall be for three years.  
10 Any member of the committee may be reappointed for an additional  
11 term or terms. An individual appointed to fill a vacancy shall  
12 serve only for the unexpired term.

13       (c) Meetings and expenses.--The committee shall meet at  
14 least four times every 12 months, but may hold additional  
15 meetings as are called by the chairman or by petition of at  
16 least seven committee members. A public member, including a  
17 designee, who misses three consecutive meetings without good  
18 cause acceptable to the chairman shall be replaced by the  
19 chairman, who shall have the power to make a temporary  
20 appointment pending approval or replacement by the Governor. The  
21 public members of the committee shall be allowed per diem  
22 expenses to be set by the committee, but not to exceed \$75. The  
23 department shall provide appropriate staff support to enable the  
24 committee to properly carry out its functions.

25       (d) Powers and duties.--The powers and duties of the  
26 committee shall be to advise and comment on the comprehensive  
27 rail freight study, to advise and comment on all phases of the  
28 rail freight transportation program activities being undertaken  
29 or financially assisted by the department and to propose  
30 methods, strategies or technologies for improving rail freight

1 transportation services systems or facilities within this  
2 Commonwealth. The committee shall annually submit reports of its  
3 general deliberations and conclusions, as well as any specific  
4 issue report completed at the committee's discretion, to the  
5 Governor, members of the General Assembly and the State  
6 Transportation Commission.

7 (e) Officers.--The members of the committee shall annually  
8 elect a chairman, a vice chairman and a secretary from among the  
9 public members appointed to the committee.

10 § 9503. Comprehensive rail freight study.

11 (a) Initiation of study.--The department shall undertake,  
12 either through its own staff or through the use of a consultant  
13 or consultants, or both, a comprehensive study of rail freight  
14 transportation services, systems and facilities within this  
15 Commonwealth and recommendations for their preservation and  
16 improvement to include at least the following elements:

17 (1) Identification of the rail network required to  
18 support Commonwealth industries.

19 (2) Identification of strategies to be used by the  
20 Commonwealth in assisting in the preservation of essential  
21 rail lines:

22 (i) A review of the department's criteria for  
23 evaluating potential projects, including, but not limited  
24 to, alternate transportation costs and hazardous  
25 materials.

26 (ii) Identification of types of assistance which  
27 would be appropriate in different problem situations.

28 (3) Identification of major heavy, high and wide freight  
29 flows and definition of a base rail network corresponding to  
30 those flows, and identification of ways in which the



department could act to preserve clearances on heavy, high and wide routes in the event of track alterations or removal.

(4) Analysis of disposition of Commonwealth-owned branch lines as well as remaining route miles that have not been acted upon by a Conrail successor.

(5) Identification of all other modes involved in rail freight movements and assessment of intermodal needs, including motor freight transfer facilities, port access and air freight movement.

(b) Study update.--The comprehensive rail freight study shall be updated every three years.

(c) Utilization of study.--The department shall consider the conclusions of the comprehensive rail freight study in the implementation of its programs designed to preserve and improve the rail freight transportation services, systems and facilities within this Commonwealth, including the development of new initiatives, where required.

(d) Appropriation.--The General Assembly shall annually appropriate funds to the department for the exclusive purpose of carrying out the comprehensive rail freight study, including department administrative expenses.

§ 9504. Program authority.

(a) Authority.--The department is hereby authorized, within the limitations provided in this chapter, to:

(1) Provide operating subsidy grants to railroad companies, transportation organizations or municipalities to defray or assist in defraying the net deficit incurred by these entities in providing essential rail freight transportation services within this Commonwealth.

(2) Provide grants to railroad companies, transportation

1 organizations or municipalities to defray or assist in  
2 defraying the cost of accelerated maintenance projects  
3 performed on rail lines within this Commonwealth.

4 (3) Undertake capital projects and provide capital  
5 project grants to railroad companies, transportation  
6 organizations or municipalities, including acquisition of  
7 rail lines. The department shall not directly operate or  
8 provide rail freight transportation services on its own rail  
9 lines or on lines owned by others, nor shall a capital  
10 project be undertaken in order to enable the department to  
11 directly provide rail freight transportation services.

12 (4) Acquire by purchase, lease, eminent domain  
13 proceedings, gift or otherwise all and any property, in such  
14 estate as determined by the secretary, for promoting the  
15 purposes of this chapter, including the property of a public  
16 utility. All municipalities and corporations are hereby  
17 authorized to donate property to the department. Eminent  
18 domain proceedings shall be in accordance with the act of  
19 June 22, 1964 (Sp.Sess., P.L.84, No.6), known as the Eminent  
20 Domain Code, and the department is empowered to join with any  
21 municipality or transportation organization in obtaining any  
22 property through the eminent domain proceedings.

23 (5) Undertake research, studies, analysis and planning  
24 and make grants to railroad companies, transportation  
25 organizations and municipalities for research, studies,  
26 analysis and planning relating to any phase of rail freight  
27 transportation services, systems and facilities, including  
28 the management, operation, capital requirements and economic  
29 feasibility thereof, and any preparation of engineering and  
30 architectural surveys, plans and specifications and other

1 similar activities preliminary to and in preparation for  
2 construction, acquisition or improved operation of rail  
3 transportation services, systems and facilities within this  
4 Commonwealth.

5 (6) Undertake demonstration projects and make grants to  
6 railroad companies, transportation organizations and  
7 municipalities for demonstration projects, including the  
8 development, testing and demonstration of new facilities,  
9 equipment, techniques and methods of providing rail  
10 transportation services, systems and facilities within this  
11 Commonwealth.

12 (7) Undertake marketing activities and make grants to  
13 railroad companies, transportation organizations and  
14 municipalities for marketing activities designed to foster  
15 the fullest and most efficient utilization of rail freight  
16 transportation services, systems and facilities within this  
17 Commonwealth. Marketing activities may be undertaken by  
18 contract with the department or by subcontract with a grantee  
19 or loan recipient of the department, upon approval of the  
20 subcontract by the secretary.

21 (8) Undertake audits of any project being financially  
22 assisted by the department. The department may hire outside  
23 auditors to perform audits or may direct its grantees to  
24 engage auditors and include the expense thereof as an  
25 eligible program cost.

26 (b) Guidelines for grants.--The following shall govern all  
27 grants made under the authority of subsection (a):

28 (1) A responsible level of local financial  
29 participation, to be determined by the department, shall be  
30 required for each category of project authorized by this

1 section.

2 (2) A grant shall be made only upon application filed by  
3 an applicant and reviewed and approved by the department. No  
4 grant shall exceed the amount requested by an applicant. An  
5 amended grant request need not be filed by an applicant where  
6 a proposed contract amendment does not exceed the amount  
7 previously requested.

8 (3) A grant may be made with reference to any  
9 appropriate project regardless of when it was first commenced  
10 or considered and regardless of whether the costs with  
11 respect thereto shall have been incurred prior to the time  
12 the project is undertaken or the project grant is applied for  
13 or made. In the case of a project involving accelerated  
14 maintenance or rehabilitation, grants shall be made by the  
15 department only after receipt of satisfactory documentation  
16 concerning the condition of the rail facilities involved  
17 before and after the accelerated maintenance or  
18 rehabilitation. Where the department contracts for a grant  
19 based upon estimated costs, payments may be made thereunder  
20 prior to the time costs are actually incurred. However, the  
21 department shall adjust the payments under any agreement  
22 before the end of the fiscal year involved, based upon the  
23 most recent available actual data.

24 (4) Any grant made for purposes of accelerated  
25 maintenance projects or capital projects shall continue for  
26 two fiscal years and shall not lapse at the end of the fiscal  
27 year in which that grant was awarded.

28 (5) No agreement shall impair, suspend, contract,  
29 enlarge or extend or affect in any manner the powers of the  
30 Pennsylvania Public Utility Commission, the Surface

1 Transportation Board or any other regulatory agency having  
2 jurisdiction over rail freight transportation services,  
3 systems and facilities.

4 (c) Federal funds.--The department is hereby authorized to  
5 make grants and loans of Federal funds to railroad companies,  
6 transportation organizations or municipalities, in accordance  
7 with the requirements of any Federal law establishing a loan  
8 program, for the purchase of real property or easements and for  
9 the rehabilitation and improvement of rail freight  
10 transportation systems and facilities.

11 § 9505. Contracts.

12 (a) Contractual authority.--

13 (1) The department shall have the power and authority to  
14 enter into contracts and to make joint contracts of purchase  
15 with any railroad company, transportation organization or  
16 municipality in any manner complying with the law applicable  
17 to the entity. The department shall have power and authority  
18 to make contracts for the improvement of any rights-of-way,  
19 roadbeds or rolling stock, electrification systems, other  
20 transportation systems, or any parts thereof, constituting a  
21 project without advertisement for competitive bids, where the  
22 work is to be done at cost by the personnel and with the  
23 facilities of the railroad company, local transportation  
24 organization or municipality on whose system the property is  
25 to be used.

26 (2) Any other provision of law to the contrary  
27 notwithstanding, the department may sell, transfer, lease or  
28 grant any license to, easement over or any other interest in  
29 all or any part of the rail properties and other property  
30 acquired under the provisions of this chapter or any other

1 rail-related act to any responsible person, firm,  
2 corporation, municipality or instrumentality thereof,  
3 municipal authority, transportation authority, the Federal  
4 Government or any branch or agency thereof for continued  
5 operation or other use compatible with the operation of a  
6 railroad or any public purpose, when approval for the  
7 continued operation or other public purpose is granted by the  
8 Surface Transportation Board, when approval is required. The  
9 department may exercise the authority and power granted under  
10 this paragraph without the necessity of competitive bidding.  
11 If, during the first five years after the sale, transfer,  
12 lease or grant of a license or easement, the property or  
13 property right is used for any purpose other than that which  
14 is compatible with the operation of a railroad or any public  
15 purpose, the property or property right shall revert to the  
16 Commonwealth.

17 (3) In the event the department determines that there is  
18 no need for continued operation of a railroad on any rail  
19 properties or other properties acquired under the provisions  
20 of this chapter or any other rail-related act and that the  
21 properties are not needed for any other public purpose, the  
22 department may sell, under a system of public competitive  
23 bidding, transfer, lease or grant any license to, easement  
24 over or any other interest in all or any part of the  
25 properties to any responsible person, firm, corporation,  
26 municipality or instrumentality thereof, municipal authority,  
27 transportation authority or to the Federal Government or any  
28 branch or agency thereof for any worthwhile purpose, as  
29 determined by the department. In the event properties which  
30 are located outside the normal right-of-way limits of the

1 adjacent railroad are not required for continued provision of  
2 rail service and, due to a landlocked state or other factors,  
3 are inaccessible to the general public, the department may,  
4 in its sole discretion, offer to sell such property to the  
5 adjoining landowner at its fair market value as determined by  
6 a professional appraisal. If the adjoining landowner agrees  
7 to pay the fair market value price as determined by such  
8 appraisal, public competitive bidding shall not be required.

9 (4) In the event the department, through the exchange of  
10 property acquired under this chapter, can foster or enhance  
11 economic development, the creation of housing, safety,  
12 environmental concerns or other activities consistent with  
13 the betterment of this Commonwealth, the department shall  
14 have the power and authority to exchange property acquired  
15 under this chapter with any responsible person, firm,  
16 corporation, municipality or instrumentality thereof,  
17 municipal authority, transportation authority or the Federal  
18 Government or any branch or agency thereof in its sole  
19 discretion. Exchanges of property shall be conducted in a  
20 manner so as not to interfere with the continued provision of  
21 rail service. Any property acquired under any exchange  
22 conducted under this paragraph, combined with any  
23 improvements located or constructed thereon, shall have a  
24 value at least equivalent to the property conveyed in  
25 exchange by the department. If, during the first five years  
26 after the exchange of property conducted under this  
27 paragraph, the property conveyed by the department is used  
28 for any purpose which is not compatible with the original  
29 purpose for which the exchange was conducted, the property or  
30 property right shall revert to the Commonwealth.

1           (5) At least 30 days prior to the sale of any property  
2 as authorized by paragraph (2) or (3), the department shall  
3 provide written notice thereof to the chairman of the  
4 Transportation Committee of the Senate and the chairman of  
5 the Transportation Committee of the House of Representatives.

6       (b) Competitive bids.--Except in the purchase of unique  
7 articles or articles which for any other reason cannot be  
8 obtained in the open market and except as otherwise provided,  
9 competitive bids shall be secured before any purchase or sale,  
10 by contract or otherwise, is made or before any contract is  
11 awarded for construction, alterations, supplies, equipment,  
12 repairs or maintenance or for rendering any services to the  
13 department other than professional services. The purchase shall  
14 be made from or the contract shall be awarded to the lowest  
15 responsible bidder or a sale to the highest responsible bidder.  
16 No purchase of any unique article or other articles which cannot  
17 be obtained in the open market shall be made without express  
18 approval of the secretary where the amount involved is in excess  
19 of \$10,000.

20       (c) Advertisement.--Except as otherwise provided in this  
21 chapter, all purchases and sales in excess of \$5,000 shall be  
22 awarded after advertising in a newspaper of general circulation  
23 in the area where the property is to be used not less than two  
24 weeks prior to the bid opening. Bids shall be publicly opened  
25 and read aloud at a date, time and place designated in the  
26 invitation to bid. In all cases of purchases or sales in excess  
27 of \$5,000 authorized under this section to be made without  
28 competitive bidding, except purchases from or sales to a  
29 transportation organization or contracts with a transportation  
30 company under subsection (a), invitations to bid shall be sent



1 not less than one week prior to the bid opening to at least  
2 three potential bidders who are qualified technically and  
3 financially to submit bids, or in lieu thereof a memorandum  
4 shall be kept on file showing that less than three potential  
5 bidders so qualified exist in the market area within which it is  
6 practicable to obtain bids.

7 (d) Negotiation of certain contracts.--Purchases or sales  
8 under \$5,000 may be negotiated with or without competitive  
9 bidding under sound procurement procedures as promulgated and  
10 established by the secretary.

11 (e) Waiver of competitive bid requirements.--Competitive  
12 bidding requirements may be waived if it is determined in the  
13 manner as the secretary may, by regulation, provide that an  
14 emergency directly and immediately affecting customer service,  
15 public health, safety or welfare requires immediate delivery of  
16 supplies, materials or equipment. A record of circumstances  
17 explaining the emergency shall be submitted to the secretary and  
18 kept on file.

19 (f) Departmental property.--Contracts for the sale or lease  
20 of property owned by the department shall be awarded after  
21 competitive bidding as shown in subsection (c), except where a  
22 contract is entered into with any municipality or agency or  
23 instrumentality of the Commonwealth, transportation  
24 organization, railroad company or Federal agency.

25 (g) Restriction.--Requirements shall not be split into parts  
26 for the purpose of avoiding the provisions of this section.

27 (h) Rejection of bids.--The department shall have the right  
28 to reject any or all bids or parts of any or all bids, whenever,  
29 in the opinion of the secretary, the rejection is necessary for  
30 the protection of the interest of the Commonwealth. In every

1 case, a record shall be made setting forth the reason for the  
2 rejection, which record shall thereafter be kept on file.

3 (i) Rules and regulations.--The secretary shall adopt rules  
4 and regulations to effectuate the provisions of this section.

5 (j) Assignments.--The secretary shall have the power to  
6 accept the assignment from any railroad company, transportation  
7 organization or municipality of all or any interest in any  
8 lawfully made contract for the procurement and purchase of any  
9 asset deemed necessary or desirable by the secretary in  
10 connection with any project.

11 § 9506. Cooperation with other governments and private  
12 interests.

13 (a) Cooperation.--The department is directed to administer  
14 all projects under this chapter with flexibility to promote and  
15 encourage full cooperation and financial participation of  
16 Federal, State and local governments, agencies and  
17 instrumentalities, as well as private interests, so as to result  
18 in as effective and economical a program as possible. The  
19 department shall respond to the requirements of any Federal rail  
20 freight transportation legislation now existing or enacted into  
21 law in the future, to the extent permitted under the laws of  
22 this Commonwealth, in order to enhance rail freight  
23 transportation services, systems and facilities within this  
24 Commonwealth.

25 (b) Agreements.--The department is hereby authorized to  
26 enter into agreements providing for mutual cooperation among it  
27 and any Federal agency and any transportation organization, or  
28 transportation company, or one or more of them, in any or all  
29 projects, including joint applications for Federal grants.

30 (c) Purpose of chapter.--It is the purpose and intent of

1 this chapter to authorize the department to do any and all other  
2 things necessary or desirable to secure the financial aid or  
3 cooperation of any of the department's projects and to do and  
4 perform all things which may be required by any Federal statute  
5 or by the lawful requirements of any Federal agency authorized  
6 to administer any program of Federal aid to transportation.

7 § 9507. Grants and loans by transportation organizations or  
8 municipalities.

9 Any transportation organization or municipality shall be and  
10 is hereby authorized to make annual grants and loans from  
11 current revenues in order to participate in the rail freight  
12 transportation projects and to enter into long-term agreements  
13 providing for the payment of the same.

14 § 9508. Rental schedule for occupations of rail property.

15 The department shall establish a uniform schedule of rentals  
16 and fees for occupations of property acquired by the department  
17 under this chapter. The schedule shall cover all licenses,  
18 easements, leases or other interests in such property. The fees  
19 and rentals shall be revised and updated from time to time at  
20 the discretion of the department.

21 § 9509. Pennsylvania Railroad Authority.

22 (a) Authority established.--A body corporate and politic, to  
23 be known as the Pennsylvania Railroad Authority, is hereby  
24 established as a public authority and instrumentality of the  
25 Commonwealth.

26 (b) Governing body.--

27 (1) The powers of the authority shall be exercised by a  
28 governing body having full authority to manage the properties  
29 and business of the authority and to prescribe, amend and  
30 repeal bylaws, rules and regulations governing the manner in

1       which the business of the authority may be conducted and the  
2       powers granted to it may be exercised. All bylaws, rules and  
3       regulations, and amendments thereto, shall be filed with the  
4       secretary of the authority.

5           (2) The governing body shall be composed of seven  
6       members who shall be residents of this Commonwealth, who  
7       shall not be elected public officials and who shall serve at  
8       the pleasure of the respective appointing authority as  
9       follows:

10           (i) Three members initially appointed by the  
11       Governor for terms of one, two and three years,  
12       respectively, the term of each to be designated by the  
13       Governor at the time of appointment, but their successors  
14       shall each be appointed for a term of four years.

15           (ii) One member appointed by the President pro  
16       tempore of the Senate for a term concurrent with the term  
17       of the appointing authority.

18           (iii) One member appointed by the Minority Leader of  
19       the Senate for a term concurrent with the term of the  
20       appointing authority.

21           (iv) One member appointed by the Speaker of the  
22       House of Representatives for a term concurrent with the  
23       term of the appointing authority.

24           (v) One member appointed by the Minority Leader of  
25       the House of Representatives for a term concurrent with  
26       the term of the appointing authority.

27           (3) The term of a member shall begin on the date of  
28       appointment. A member may continue to serve as a member until  
29       a successor has been appointed and may serve more than one  
30       term.

1           (4) Within 30 days of the occurrence of a vacancy, the  
2 original appointing authority designated in paragraph (2)  
3 shall appoint a successor member for the remainder of the  
4 unexpired term of the member for which the vacancy exists. A  
5 vacancy shall occur upon the death, resignation,  
6 disqualification or removal of a member.

7           (5) The Governor shall set a date, time and place for  
8 the initial organizational meeting of the board. Prior to the  
9 organizational meeting, the Governor shall select one member  
10 as a chairman of the board for a term of two years. A  
11 majority of the board shall constitute a quorum for the  
12 conduct of business at the organizational meeting of the  
13 board. All action shall be taken at the organizational  
14 meeting by a majority of the board. The members shall elect  
15 from among themselves a vice chairman, secretary, treasurer  
16 and other officers as they may determine.

17           (6) The board shall reorganize annually at its first  
18 regular meeting occurring after the expiration of 365 days  
19 immediately following its initial organizational meeting or  
20 prior reorganization, as the case may be, in the manner  
21 provided for its initial organization. Prior to the  
22 reorganizational meeting, the Governor shall select one  
23 member as chairman of the board for a term of two years  
24 whenever the office of chairman is vacant by reason of  
25 expiration of the term of the office of chairman or  
26 otherwise.

27           (7) The board shall meet at least monthly. A majority of  
28 the board shall constitute a quorum for the purpose of  
29 conducting the business of the board and for all other  
30 purposes. All actions of the board shall be taken by a

majority of the board.

(8) A member shall not receive compensation or remuneration, but shall be entitled to reimbursement for all reasonable and necessary actual expenses.

(9) A member shall not be liable personally on any obligation of the authority, and the rights of creditors shall be solely against the authority.

(10) The board shall fix and determine the number of officers, agents and employees of the authority and their respective compensation and duties. The board shall, upon the approval of a majority, delegate to the executive director the powers of the board as the board shall deem necessary to carry out the purposes of the authority, subject in every case to the supervision and control of the board.

(11) A member shall be removed from the board for neglect or refusal to attend three successive regular meetings of the board, unless detained by a sickness or the death of a family member.

(c) General powers.--

(1) The authority is established for the purpose of acquiring, operating, maintaining and leasing locomotives and rolling stock to be used on new or existing intercity or commuter railroad passenger service operated by or on license to the National Railroad Passenger Corporation (AMTRAK) or other carrier.

(2) The authority may fund these acquisitions of locomotives and rolling stock through any of the following:

(i) Loans issued by the State Infrastructure Bank.

(ii) Department-initiated program grants under

Chapter 13 (relating to public transportation

1 assistance).

2 (iii) Appropriations by the General Assembly.

3 (iv) Federal augmentations.

4 (d) Specific powers.--The authority is granted and shall  
5 have and may exercise all powers necessary or convenient for  
6 performing or carrying out the purposes under subsection (c),  
7 including the following rights and powers:

8 (1) To have perpetual existence and continuing  
9 succession.

10 (2) To sue and be sued, implead and be impleaded,  
11 complain and defend in all courts, to petition the Surface  
12 Transportation Board or any other regulatory body, either  
13 Federal or State and to join in any proceeding before any  
14 court or the Surface Transportation Board or other regulatory  
15 body in any matter affecting the operation of the authority.

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

17 (4) To establish a principal office and any other office  
18 or offices as may be necessary for the purpose of performing  
19 its duties and functions.

20 (5) To acquire, by gift or otherwise, purchase, hold,  
21 receive, lease, sublease and use any franchise, license,  
22 personal property, tangible or intangible, or any interest  
23 therein, necessary or desirable for carrying out the purposes  
24 of the authority.

25 (6) To sell, transfer, convey and dispose of any  
26 personal property, tangible or intangible, or any interest  
27 therein, at any time acquired by the authority.

28 (7) To make and, from time to time, amend and repeal  
29 bylaws, rules, regulations and resolutions for the management  
30 and regulation of the affairs of the authority and the

1 performance of the functions and duties of the authority.

2 (8) To appoint officers, agents, employees and servants,  
3 and to prescribe their duties and fix their compensation,  
4 provided that the appointment of a full-time executive  
5 director shall be made by a majority vote of the board.

6 (9) To make and execute contracts and other instruments  
7 necessary or convenient for the conduct of its business and  
8 the exercise of the powers of the authority.

9 (10) To apply for and to accept appropriations, grants,  
10 loans and other assistance from, and to enter into contracts,  
11 agreements, leases, subleases, licenses or other transactions  
12 with, the Federal Government, the Commonwealth, political  
13 subdivisions, persons, associations, partnerships or  
14 corporations for any of the purposes of the authority,  
15 provided that these contracts or agreements do not conflict  
16 with any of the provisions of any trust agreement.

17 (11) To pledge, hypothecate or otherwise encumber all or  
18 any of the revenues or receipts of the authority as security  
19 for all or any of the obligations of the authority.

20 (12) To provide for self-insurance or to procure from  
21 insurers insurance containing coverages which the authority  
22 may determine to be necessary or desirable for its purposes,  
23 including, without limitation, insurance covering the  
24 property or operation of the authority against any risks or  
25 hazards.

26 (13) (i) To enter into contracts of group insurance for  
27 the benefit of its employees.

28 (ii) To enroll its employees in the Commonwealth  
29 retirement system established pursuant to 71 Pa.C.S. Part  
30 XXV (relating to retirement for State employees and



1           officers).

2           (14) To establish an executive committee and other  
3           standing and special committees that are deemed necessary in  
4           the furtherance of authority business.

5           (15) To do all acts and things necessary for the  
6           promotion of its business and the general welfare of the  
7           authority to carry out the powers granted to it by this  
8           chapter or any other statute.

9           (16) To fix, alter, charge and collect lease rental  
10          fees.

11          (e) Prohibition.--Notwithstanding any general or specific  
12          powers granted to the authority or the board by this section,  
13          whether express or implied:

14               (1) The authority shall have no power, at any time or in  
15               any manner, to pledge the credit or taxing power of the  
16               Commonwealth or any political subdivision.

17               (2) The authority shall have no power, at any time or in  
18               any manner, to issue negotiable notes, bonds, refunding bonds  
19               and other evidences of indebtedness or obligations of the  
20               authority.

21               (3) No obligations of the authority shall be deemed to  
22               be obligations of the Commonwealth or of any of its political  
23               subdivisions.

24               (4) The Commonwealth or any political subdivision  
25               thereof shall not be liable for the payment of principal or  
26               interest on obligations of the authority, excluding payments  
27               for lease agreements regarding the property of the authority.

28               (5) The authority shall be deemed an independent agency  
29               for the purposes of and within the meaning of the act of  
30               October 15, 1980 (P.L.950, No.164), known as the Commonwealth

Attorneys Act, and shall not exercise any power or authority under this chapter which is inconsistent therewith.

(6) A comptroller shall be appointed in accordance with the provisions of section 214 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(f) Rights and remedies of obligees.--Subject to any contractual provisions or restrictions, an obligee shall have the following rights, in addition to any rights and remedies lawfully granted to such obligee:

(1) The right, 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 contract of the authority with or for the benefit of the obligee and to require the carrying out of any or all such covenants and agreements of the authority and the fulfillment of all duties imposed upon the authority by this chapter.

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

(g) Audits and financial reports.--The books, accounts, records, operations and assets and liabilities of the authority shall be audited annually in accordance with generally accepted auditing standards and principles by an independent certified public accountant. As soon after the end of each fiscal year and the completion of the audit as may be expedient, the authority shall file an annual report and financial statement, which shall include a certified copy of the audit report of the independent certified public accountant, with the department. A condensed

1 and concise version of the annual financial report shall be  
2 published once in the Pennsylvania Bulletin. The Secretary of  
3 the Budget, the Auditor General, the chairman and minority  
4 chairman of the Appropriations Committee of the Senate and the  
5 chairman and minority chairman of the Appropriations Committee  
6 of the House of Representatives shall have the right to examine,  
7 from time to time and at any time, the books, accounts and  
8 records of the authority, including, but not limited to, its  
9 receipts, disbursements, contracts, leases, sinking funds,  
10 investments and other matters relating to the finances,  
11 operations and affairs of the authority.

12 (h) Supplies and materials.--All supplies and materials  
13 costing \$4,000 or more which are to be acquired directly by the  
14 authority shall not be purchased unless the authority has  
15 published notice, at least ten days before the award of any  
16 contract or the making of any purchase, in the Pennsylvania  
17 Bulletin. The authority shall accept the lowest bid or bids from  
18 a responsible bidder, provided that the kind and quality of  
19 materials are equal. The authority shall have the right to  
20 reject any or all bids or select a single item from any bid. The  
21 provisions of this subsection shall not apply to the purchase of  
22 any supplies and materials which are unique and which cannot be  
23 obtained in the open market.

24 (i) Use and operation of facilities.--The acquisition,  
25 operation, maintenance and lease of locomotives or rolling stock  
26 under subsection (c) shall be subject to the rules and  
27 regulations adopted from time to time by the board, provided  
28 that the authority shall not be authorized to do anything which  
29 will violate any contracts, leases or other agreements awarded,  
30 made or entered into by the authority.

1       (j) Exemption from taxes and assessments.--The effectuation  
2 of the authorized purposes of the authority created under this  
3 section shall and will be in all respects for the benefit of the  
4 people of this Commonwealth, for the increase of their commerce  
5 and prosperity and for the improvement of their health and  
6 living conditions and, since the authority will be performing  
7 essential government functions in effectuating these purposes,  
8 the authority shall not be required to pay any taxes or  
9 assessments upon any property acquired or used by it for these  
10 purposes, or fees or other charges imposed or authorized to be  
11 imposed by virtue of any law of the Commonwealth, except vehicle  
12 registration fees, liquid fuels taxes, fuel use taxes, gross  
13 receipts taxes imposed as an excise on the use of public  
14 highways, and tolls imposed by the Pennsylvania Turnpike  
15 Commission. The authority shall have the power to make payments  
16 in lieu of taxes or special assessments.

17       (k) Interest of officers and employees.--

18           (1) No person convicted of an infamous crime shall be  
19 employed as a management-level employee by the authority.

20           (2) The provisions of 65 Pa.C.S. Ch.11 (relating to  
21 ethics standards and financial disclosures), and the act of  
22 July 19, 1957 (P.L.1017, No.451), known as the State Adverse  
23 Interest Act, are hereby made specifically applicable to  
24 members and officers and employees of the authority. For the  
25 purposes of application of these acts, employees of the  
26 authority shall be regarded as public employees of the  
27 Commonwealth, and members and officers of the authority shall  
28 be regarded as public officials of the Commonwealth, whether  
29 or not they receive compensation.

30           (3) The employment of any person who violates the

1 provisions of this subsection shall be terminated immediately  
2 by the appropriate person having the power to terminate  
3 employment. A person whose employment has been terminated  
4 under this provision shall be liable to the authority to  
5 reimburse the authority for all compensation received from  
6 the authority while employed in violation of this subsection.

7 (4) As used in this subsection, the following words and  
8 phrases shall have the meanings given to them in this  
9 paragraph:

10 (i) "Infamous crime." Any violation and conviction  
11 for an offense which would disqualify an individual from  
12 holding public office pursuant to section 6 of Article II  
13 of the Constitution of Pennsylvania, or any conviction  
14 for a violation of this section or 18 Pa.C.S. § 4113  
15 (relating to misapplication of entrusted property and  
16 property of government or financial institutions) or Ch.  
17 47 (relating to bribery and corrupt influence), 49  
18 (relating to falsification and intimidation), 51  
19 (relating to obstructing governmental operations) or 53  
20 (relating to abuse of office) or any other violation of  
21 the laws of this Commonwealth for which an individual has  
22 been convicted within the preceding ten years and which  
23 is classified as a felony, and any similar violations of  
24 the laws of the Federal Government or any other state.

25 (ii) "Management-level employee." The chairman of  
26 the authority, members, legal counsel employed by the  
27 authority, the executive director of the authority and  
28 any authority employee with discretionary powers which  
29 may affect the outcome of a decision of the authority in  
30 relation to a private corporation or business or any

employee who by virtue of job function could influence the outcome of such a decision.

(iii) "Person." An individual, union, committee, club, 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 or as a not-for-profit corporation or organization, or other organization or group of persons.

(1) Nondiscrimination.--The authority shall comply in all regards with the nondiscrimination and contract compliance plans used by the Department of General Services to assure that all persons are accorded equality of opportunity in employment and contracting by the authority and its contractors, subcontractors, assignees, lessees, agents, vendors and suppliers.

(m) Public meetings and records.--The authority shall be subject to 65 Pa.C.S. Ch. 7 (relating to open meetings), and the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, relating to the inspection and copying of public records.

(n) Sovereign immunity.--It is hereby declared to be the intent of the General Assembly that the authority created by this section and its members, officers, officials and employees shall 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 provisions of 42 Pa.C.S. Ch. 85 Subchs. A (relating to general provisions) and B (relating to

1 actions against Commonwealth parties). Notwithstanding the  
2 provisions of 42 Pa.C.S. § 8525 (relating to legal assistance),  
3 the authority, through its legal counsel, shall defend actions  
4 brought against the authority or its members, officers,  
5 officials and employees when acting within the scope of their  
6 official duties.

7 § 9510. Rail transportation security risk assessment.

8 (a) Freight and intercity passenger rail transportation.--  
9 The committee, in consultation with the director, shall assess  
10 the security risk associated with freight and intercity  
11 passenger rail transportation and develop prioritized  
12 recommendations for:

13 (1) Improving the security of rail infrastructure and  
14 facilities, terminals, tunnels, rail bridges, rail switching  
15 areas and other areas identified by the director as posing  
16 significant rail-related risks to public safety and the  
17 movement of interstate commerce, taking into account the  
18 impact that any proposed security measure might have on the  
19 provision of rail service.

20 (2) Deploying chemical and biological weapon detection  
21 equipment.

22 (3) Training railroad employees in terrorism response  
23 activities, including participating in exercises with county  
24 or regional terrorism task forces.

25 (4) Identifying the immediate and long-term economic  
26 impact of proposed security measures.

27 (b) Existing private and public sector efforts.--The  
28 assessment under subsection (a) shall include a review of  
29 actions already taken by public and private entities and actions  
30 necessary to address identified security issues.

1 (c) Railroad crossing delays.--The assessment under  
2 subsection (a) shall include an analysis of the risks to public  
3 safety and to the security of rail transportation that are  
4 associated with delays in the movement of trains stopped on  
5 railroad grade crossings of highways, streets and other  
6 thoroughfares, particularly in major metropolitan areas.

7 (d) Passenger rail assessment.--The committee, in  
8 consultation with the director and passenger railroads, shall  
9 study the cost and feasibility of requiring security screening  
10 for passengers, baggage, mail and other cargo on passenger  
11 trains. The committee shall report the results of the study and  
12 recommendations for implementing a rail security-screening  
13 program to the Governor and the General Assembly. The assessment  
14 shall include, but is not limited to, an evaluation of the  
15 following measures:

16 (1) Installation of locking doors in locomotive cab.

17 (2) Equipping of hazardous materials protective clothing  
18 and other similar protective clothing in locomotive cab.

19 (3) Cellular phones or similar type phones for access to  
20 911 in locomotive cab.

21 (4) Every train crew member and yard worker being issued  
22 authorized photo identification to display at all times while  
23 on railroad property.

24 (5) Additional Pennsylvania State Police officers and  
25 railroad police to be trained and deployed to specifically  
26 monitor railroad infrastructure, including tunnels and  
27 bridges.

28 (6) Each railroad engineer, conductor and yard employee  
29 receiving a minimum number of hours of classroom and on-the-  
30 job training in security and antiterrorism.



1           (7) Specially trained dogs to regularly patrol rail  
2 yards and station facilities.

3           (8) Passenger and baggage screening upon entering train  
4 stations and carry-on bags being subject to individual hand  
5 searches after screening.

6           (9) A computer-based profiling system aimed at  
7 identifying passengers who may present a threat, including a  
8 data base for crosschecking names on law enforcement watch  
9 lists with passenger lists.

10          (10) Only ticketed passengers being allowed to enter the  
11 gate and visitors no longer being permitted to pass through  
12 security checkpoints.

13          (11) Reduction of access to trackside at stations and  
14 other secure areas of railroad.

15          (12) A list of prohibited items to be carried by  
16 passengers, including explosive or flammable items, knives  
17 and other cutting tools, so-called "dual use" items such as  
18 pointed scissors, cigar cutters, sporting goods such as  
19 baseball bats and golf clubs that could be used as weapons  
20 and various personal care instruments.

21          (13) A passenger ticket fee to assist in funding  
22 transportation security operations.

23          (14) A plan to monitor vehicles parked in close  
24 proximity of rail stations and rail yards with unattended  
25 vehicles being subject to towing.

26          (15) Adopting a plan for the installation, continuous  
27 operation, monitoring and maintenance of closed circuit  
28 television security systems, including two-way intercoms, at  
29 unmanned facilities and railroad stations and rail yards.

30          (e) Consultation.--In conducting the assessment under this

1 section, the committee shall consult with a balanced  
2 representation of a subcommittee of rail management, rail labor  
3 officials, facility owners and operators, legislative standing  
4 committees on transportation and veterans affairs and emergency  
5 preparedness and public safety officials. The committee may use  
6 recommendations or reports of the standing committees to  
7 incorporate in the assessment. A copy of the assessment shall be  
8 submitted to the General Assembly, the Governor and the director  
9 one year from the date of enactment of this act.

10 (f) Costs.--Costs of the assessment under this section, not  
11 to exceed \$200,000, shall be paid for with Federal funds  
12 specifically appropriated by the General Assembly as part of the  
13 act of , 2004 (P.L. , No. A), known as the General  
14 Appropriation Act of 2004.

15 § 9511. Operating railroad locomotives in reverse.

16 (a) Prohibition.--No Class I railroad operating in this  
17 Commonwealth may operate a railroad locomotive in reverse or  
18 backup position on any main line, except when:

- 19 (1) an emergency exists;
- 20 (2) performing switching operations;
- 21 (3) a wye or turntable is not in operation within 30  
22 track miles; or
- 23 (4) the railroad locomotive is engaged in the  
24 transportation of passengers.

25 (b) Penalty.--Violations of this section shall be subject to  
26 a fine of not more than \$1,000 for each violation.

27 (c) Definitions.--As used in this section, the term "operate  
28 a railroad locomotive in reverse or backup position" means to  
29 operate a railroad locomotive such that the smokestack or diesel  
30 vent is in front of the operator when the operator faces the

1 track ahead.

2 § 9512. Railroad trespass.

3 (a) Damage to railroad or delay of railroad operations.--

4 (1) A person commits an offense if, without lawful  
5 authority or the railroad carrier's consent, he causes damage  
6 to property that he knows or reasonably should have known to  
7 be railroad property, including the railroad right-of-way or  
8 yard, or causes a delay in railroad operations, by an act  
9 including, but not limited to:

10 (i) Knowingly, purposefully or recklessly  
11 disrupting, delaying or preventing the operation of any  
12 train, jitney, trolley or any other facility of  
13 transportation.

14 (ii) Driving or operating a recreational vehicle or  
15 nonrecreational vehicle, including, but not limited to, a  
16 bicycle, motorcycle, snowmobile, all-terrain vehicle, car  
17 or truck.

18 (iii) Knowingly, purposefully or recklessly damaging  
19 railroad property, railroad infrastructure or railroad  
20 equipment or using railroad property to access adjoining  
21 property to commit acts of vandalism, theft or other  
22 criminal acts.

23 (2) An offense under this subsection constitutes a  
24 misdemeanor of the third degree.

25 (b) Stowaways prohibited.--

26 (1) A person commits an offense if, without lawful  
27 authority or the railroad carrier's consent, he rides on the  
28 outside of a train or inside a passenger car, locomotive or  
29 freight car, including a box car, flatbed or container.

30 (2) An offense under this subsection constitutes a

1 misdemeanor of the third degree.

2 (c) Limitation on liability.--

3 (1) A railroad carrier owes no duty of care to keep its  
4 railroad property safe for entry or use by any person who  
5 enters upon any railroad property or railroad right-of-way or  
6 to give any warning to such person entering or going on that  
7 railroad property of a dangerous condition, use or activity  
8 thereon.

9 (2) Except as set forth in paragraph (3), a railroad  
10 carrier shall not:

11 (i) Be presumed to extend any assurance to a person  
12 entering or going on railroad property without the  
13 railroad carrier's consent that the railroad property is  
14 safe for any purpose.

15 (ii) Incur any duty of care toward a person entering  
16 or going on railroad property without the railroad  
17 carrier's consent.

18 (iii) Become liable for any injury to a person  
19 entering or going on railroad property without the  
20 railroad carrier's consent caused by an act or omission  
21 of such person.

22 (3) Nothing in this subsection limits in any way any  
23 liability which otherwise exists for willful or malicious  
24 failure to guard or warn against a dangerous condition, use  
25 or activity.

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

29 "Railroad carrier's consent." Written or other affirmative  
30 communication of permission to be on railroad property. Consent

1 shall not be implied.

2 "Railroad property." All tangible property owned, leased or  
3 operated by a railroad carrier, including a right-of-way, track,  
4 bridge, yard, shop, station, tunnel, viaduct, trestle, depot,  
5 warehouse, terminal or any other structure, appurtenance or  
6 equipment owned, leased or used in the operation of any railroad  
7 carrier including a train, locomotive, engine, railroad car,  
8 work equipment, rolling stock or safety device. The term does  
9 not include a railroad carrier's administrative building or  
10 offices, office equipment or intangible property such as  
11 computer software or other information.

12 § 9513. Signs and emergency notification system.

13 (a) Signs.--Railroad crossings shall be posted in accordance  
14 with departmental regulations which shall require signs at  
15 appropriate locations stating the penalties for a violation of  
16 this section and require that the signs be replaced when they  
17 become either obsolete or missing.

18 (b) Emergency notification system.--The department shall  
19 work with railroads, the Rail Freight Advisory Committee, the  
20 Federal Railroad Administration and the Pennsylvania Public  
21 Utility Commission to expand an emergency notification system at  
22 all railroad crossings, which includes:

23 (1) Posting of a toll-free number to a centralized  
24 emergency response center.

25 (2) Maintenance of software and database of emergency  
26 responders including contacts with participating railroad  
27 companies.

28 (3) Funding for establishing, maintaining and posting of  
29 crossings shall be provided from transportation safety  
30 allocation to the department, homeland security funds from

1 various Federal agencies designated for transportation or any  
2 other dedicated source of funding for emergency response  
3 agencies.

4 (c) Modification.--Nothing in this section is intended to  
5 supersede or modify 49 U.S.C. § 20153 (relating to audible  
6 warnings at highway-rail grade crossing), and related rules and  
7 regulations for the Federal Emergency Notification System.

8 § 9514. Emergency response training.

9 (a) Training required.--Railroads operating in this  
10 Commonwealth shall implement an emergency response program to  
11 provide emergency response training and certification for their  
12 employees. Participation in the program by railroad employees  
13 shall be mandatory. Each railroad shall develop and approve a  
14 standard course and curriculum that includes instruction in:

15 (1) Rail safety and security.

16 (2) Emergency response.

17 (3) Surveillance for suspicious activities taking place  
18 on a locomotive or freight train and around railroad stops,  
19 bridges and tunnels.

20 (b) Certificate.--Upon completion of the training program,  
21 the railroad employee shall receive a certificate verifying his  
22 completion of the program and certification to respond to  
23 emergencies.

24 (c) Consultation.--Except as set forth in subsection (d),  
25 for the purpose of program development, each railroad shall  
26 consult with:

27 (1) Labor organizations representing rail employees.

28 (2) The department.

29 (3) Emergency response agencies such as the Department  
30 of Homeland Security, the Federal Emergency Management

Agency, the Pennsylvania Emergency Management Agency and the Pennsylvania State Police.

(d) Exception.--Subsection (c) does not apply to a railroad with an emergency response program established prior to the effective date of this section.

(e) Costs.--The costs involved to implement this training program shall be borne by the railroad.

§ 9515. Railroad employee identification.

Railroad employees and contractors employed by the railroad company shall carry a photo identification card approved by the department at all times while upon any railroad property, including, but not necessarily limited to, onboard trains or track structures or classification yards. In the event that an emergency or accident occurs involving a locomotive or freight train, the engineer, conductor, brakeman or other members of the crew of a locomotive or freight train operated upon rails, including operation on a railroad crossing over a highway, street or other thoroughfare, shall be required to present photo identification or other credentials verifying that the operator of the locomotive or freight train is an official crew member.

§ 9516. Regulations.

(a) Authority.--In order to effectuate and enforce the provisions of this chapter, the department is authorized to promulgate necessary rules and regulations and prescribe conditions and procedures in order to assure compliance in carrying out the purposes for which grants may be made under this chapter. The rules and regulations shall also provide for the observance of the relevant safety standards of any regulatory body having jurisdiction to promulgate safety standards, but the department shall not be authorized to do

1 anything or suffer or permit any action which will violate any  
2 agreement with a transportation organization, transportation  
3 company or any Federal agency or impair, suspend, contract,  
4 enlarge or extend or affect in any manner the powers of the  
5 Pennsylvania Public Utility Commission or the Surface  
6 Transportation Board, which by law are applicable to the  
7 railroad company, transportation organization or municipality  
8 involved.

9 (b) Railroad operations.--The department shall promulgate  
10 regulations governing the operation of railroads taking into  
11 consideration the recommendations of the committee and the  
12 director. The authority granted in this section includes the  
13 power to regulate the operation of locomotives in a safe manner.  
14 The department is authorized in consultation with the committee  
15 and the director to adopt regulations regarding railroad  
16 operations during heightened security alerts.

17 (c) Limitation.--All decisions, findings and regulations  
18 made by the secretary under this chapter shall be for the  
19 purpose of this chapter only and shall not constitute evidence  
20 before any regulatory body of the Commonwealth or any other  
21 jurisdiction.

22 Section 2. Those members currently serving on the Rail  
23 Freight Advisory Committee shall continue to serve until the  
24 expiration of their terms or until successors have been  
25 appointed and qualified, but no longer than six months beyond  
26 the expiration of their terms. This section shall not prohibit  
27 the reappointment of existing members in accordance with 74  
28 Pa.C.S. § 9502(b).

29 Section 3. The sum of \$5,000,000, or as much thereof as may  
30 be necessary, is hereby appropriated to the State Infrastructure



1 Bank, for the fiscal year July 1, 2004, to June 30, 2005, to  
2 make loans available for rail preservation, improvement and  
3 infrastructure. This appropriation shall be a continuing  
4 appropriation and shall lapse on June 30, 2009.

5 Section 4. (a) Specific.--The act of July 5, 1984 (P.L.587,  
6 No.119), known as the Rail Freight Preservation and Improvement  
7 Act, is repealed.

8 (b) General.--All acts and parts of acts are repealed  
9 insofar as they are inconsistent with this act.

10 Section 5. This act shall take effect as follows:

11 (1) This section shall take effect immediately.

12 (2) The provisions of 74 Pa.S.S. §§ 9514 and 9515 shall  
13 take effect upon publication by the Department of  
14 Transportation in the Pennsylvania Bulletin.

15 (3) The remainder of this act shall take effect in six  
16 months.