

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1258 Session of 2011

INTRODUCED BY RAFFERTY, SCARNATI, PILEGGI, WOZNIAK, M. WHITE,
ERICKSON AND MENSCH, SEPTEMBER 28, 2011

REFERRED TO TRANSPORTATION, SEPTEMBER 28, 2011

AN ACT

1 Amending the act of June 12, 1931 (P.L.575, No.200), entitled
2 "An act providing for joint action by Pennsylvania and New
3 Jersey in the development of the ports on the lower Delaware
4 River, and the improvement of the facilities for
5 transportation across the river; authorizing the Governor,
6 for these purposes, to enter into an agreement with New
7 Jersey; creating The Delaware River Joint Commission and
8 specifying the powers and duties thereof, including the power
9 to finance projects by the issuance of revenue bonds;
10 transferring to the new commission all the powers of the
11 Delaware River Bridge Joint Commission; and making an
12 appropriation," further providing for powers and duties of
13 commission and for commission; providing for prohibitions,
14 requirements and veto; and further providing for definitions.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Article I(n) of the the act of June 12, 1931
18 (P.L.575, No.200), entitled "An act providing for joint action
19 by Pennsylvania and New Jersey in the development of the ports
20 on the lower Delaware River, and the improvement of the
21 facilities for transportation across the river; authorizing the
22 Governor, for these purposes, to enter into an agreement with
23 New Jersey; creating The Delaware River Joint Commission and
24 specifying the powers and duties thereof, including the power to

1 finance projects by the issuance of revenue bonds; transferring
2 to the new commission all the powers of the Delaware River
3 Bridge Joint Commission; and making an appropriation," amended
4 April 3, 1992 (P.L.57, No.19), is amended to read:

5 ARTICLE I

6 The body corporate and politic, heretofore created and known
7 as The Delaware River Joint Commission, hereby is continued
8 under the name of The Delaware River Port Authority (hereinafter
9 in this agreement called the 'commission'), which shall
10 constitute the public corporate instrumentality of the
11 Commonwealth of Pennsylvania and the State of New Jersey for the
12 following public purposes, and which shall be deemed to be
13 exercising an essential governmental function in effectuating
14 such purposes, to wit:

15 * * *

16 [(n) The planning, financing, development, acquisition,
17 construction, purchase, lease, maintenance, marketing,
18 improvement and operation of any project, including, but not
19 limited to, any terminal, terminal facility, transportation
20 facility or any other facility of commerce or economic
21 development activity, from funds available after appropriate
22 allocation for maintenance of bridge and other capital
23 facilities.]

24 Section 2. The third paragraph of Article II of the act,
25 amended April 3, 1992 (P.L.57, No.19), is amended to read:

26 ARTICLE II

27 * * *

28 Six of the eight commissioners for the Commonwealth of
29 Pennsylvania shall be appointed by the Governor of Pennsylvania
30 for terms of five years. The Auditor General and the State

1 Treasurer of said Commonwealth shall, ex-officio, be
2 commissioners for said Commonwealth, each having the privilege
3 of appointing a representative to serve in his place at any
4 meeting of the commission which he does not attend personally.
5 Pennsylvania commissioners who are not ex-officio members of the
6 commission shall be confirmed by a majority of the members
7 elected to the Senate.

8 * * *

9 Section 3. The act is amended by adding an article to read:

10 ARTICLE XII-C

11 (1) No commissioner, director, officer or employe may
12 directly or indirectly solicit, request, suggest or recommend to
13 any contractor, vendor or grant recipient, holding company,
14 affiliate, intermediary or subsidiary thereof, doing business
15 with the commission for the appointment or employment of any
16 person in any capacity.

17 (2) No commissioner, director, officer or employe shall
18 exert undue influence on commission matters. Undue influence is
19 an attempt, whether successful or not, by a commissioner,
20 director, officer or employe to induce action or inaction by the
21 commission through its employes, with regard to a material issue
22 pertaining to the commission, based not on the best interests of
23 the commission and the public which it serves but rather
24 motivated at least in some material respect by kinship,
25 friendship or business association, regardless of whether or not
26 there exists an expectation of personal material gain. No
27 commissioner, director, officer or employe of the commission
28 shall:

29 (a) Accept other employment or office involving compensation
30 of value, the responsibilities of which are inherently

incompatible with the responsibilities of the office or
employment with the commission.

(b) Use or attempt to use his official position to secure
for himself or others unwarranted privileges or exemptions which
are not properly available on the same terms to similarly
situated individuals.

(c) Act in a manner which would cause a reasonable person,
having knowledge of the relevant circumstances, to conclude that
a commissioner, director, officer or employe has exerted undue
influence in performing his role or duties as a commissioner,
director, officer or employe.

(3) No commissioner, director, officer or employe of the
commission shall represent, accept employment from or otherwise
assist, directly or indirectly, a vendor or contractor doing
business with the commission for a period of two years after
termination of employment or official status with the
commission. A private entity which retains or engages, directly
or indirectly, as an employe, agent or representative, a former
commissioner, director, officer or employe within a period of
two years following the commissioner's, director's, officer's or
employe's termination of employment or official status with the
commission shall be barred from being awarded future contracts
by the commission for a period of two years following the
engagement or retention of the employe.

(4) The commission shall not enter into a contract with a
person, corporation or other legal entity that:

(a) is owned wholly or in part by a commissioner, director,
officer or employe or his relative; or

(b) a commissioner, director, officer or employe or his
relative has entered into a contractual or business relationship

1 with or has received a personal pecuniary benefit therefrom.

2 (5) The commission is prohibited from entering into a
3 contract containing, or contingent upon, a written agreement or
4 understanding which requires a party to make a payment of a
5 portion of any consideration, commission, premium or fee
6 received under or attributable to the contract, with a person or
7 entity not a party to the contract. The commission is required
8 to include a provision in its contracts providing that no party
9 to the contract shall be required to make a payment of a portion
10 of any consideration, commission, premium or fee received under
11 or attributable to the contract, with a person or entity not a
12 party to the contract. A person or entity, which is a party to a
13 contract with the commission, is prohibited from offering to
14 make or making a payment to another person or entity having a
15 separate contractual relationship with the commission in order
16 to obtain contracts or agreements with the commission. A person
17 or entity, which is a party to a contract with the commission,
18 is prohibited from receiving or soliciting payment of a portion
19 of any consideration, commission, premium or fee received under
20 or attributable to a separate contractual relationship between
21 the commission and another person or entity.

22 (6) No commissioner, director, officer or employe of the
23 commission may:

24 (a) Engage in political activity while on duty for the
25 commission. An employe may engage in political activity on the
26 employe's own time.

27 (b) Use commission resources to engage in political activity
28 at any time.

29 (7) A vendor doing business with the commission on the
30 effective date of this article and thereafter, including

1 providing professional services, shall disclose political
2 contributions made during the current calendar year and during
3 the immediately preceding ten consecutive calendar years. A
4 prospective vendor doing business with the commission shall
5 disclose political contributions in the same manner as a current
6 vendor in conjunction with submitting a bid for providing goods
7 or services to the commission or in responding to any other
8 solicitation for goods and services by the commission.

9 (8) The commission shall not make monetary contributions to
10 charitable and civic organizations. A request for in-kind
11 support to a charitable or civic organization shall be approved
12 by the commission at a public meeting.

13 (9) The commission shall permit and cooperate in each audit
14 that the New Jersey Comptroller wishes to conduct. An audit
15 committee is established to oversee an independent financial,
16 performance and forensic audit every two years. The New Jersey
17 Comptroller shall not serve as a member of the audit committee.
18 The audit committee shall be composed of the Auditor General of
19 the Commonwealth of Pennsylvania, who shall serve as chair, one
20 member appointed by the Governor of the Commonwealth of
21 Pennsylvania and one member appointed by the Governor of the
22 State of New Jersey. The members of the audit committee
23 appointed by the Governor of the Commonwealth of Pennsylvania
24 and the Governor of the State of New Jersey shall serve at the
25 pleasure of their appointing authorities and not serve as
26 members of the committee contemporaneous to any other service
27 with the commission or while doing business with the commission
28 and shall have substantial experience in accounting or finance.
29 No commissioner, officer, director or employe of the commission,
30 nor a person or entity doing business with the commission, shall

1 serve as a member of the audit committee for a period of two
2 years following the termination of their appointment, service,
3 employment or business activity with the commission.

4 (10) The Attorney General of the Commonwealth of
5 Pennsylvania and the Attorney General of the State of New Jersey
6 are hereby authorized to take action under the laws of the
7 Commonwealth of Pennsylvania and the State of New Jersey to
8 enforce the provisions of the compact or agreement.

9 (11) The commission shall be subject to the following:

10 (a) The act of February 14, 2008 (P.L.6, No.3), known as the
11 Right-to-Know Law, and the New Jersey Open Public Records Act
12 (P.L. 2001, c.404, N.J.S. 47:1A-1 et seq.). In the event the two
13 statutes conflict, the commission shall comply with the act that
14 is more stringent.

15 (b) 65 Pa.C.S. Ch. 7 (relating to open meetings) and the New
16 Jersey Open Public Meetings Act (P.L.1975, c.231, N.J.S. 10:4-6
17 et seq.). In the event the two statutes conflict, the commission
18 shall comply with the provisions of the act that is more
19 stringent.

20 (c) 65 Pa.C.S. Ch. 11, known as the Public Official and
21 Employee Ethics Act.

22 (12) (a) The General Assembly finds and declares that
23 subparagraph (b) is intended to provide by law for the exercise
24 of a veto power by the Governor in accordance with the authority
25 reserved in Article III.

26 (b) The Governor may exercise a veto over an action of a
27 commissioner within ten days, excluding Saturdays, Sundays and
28 other public holidays in this Commonwealth, after receipt by the
29 Governor's Office of the minutes of the meeting where the vote
30 was taken. The minutes shall be delivered to the Governor by a

1 method agreed to in advance by the Governor. The Governor shall
2 notify the commission in writing of the date the minutes were
3 received and the specific vote or action that is being vetoed by
4 the notification and the name of the commissioner whose vote or
5 action is being vetoed. The Governor shall deliver a copy of the
6 veto notification to the commissioner whose vote or action is
7 being vetoed.

8 Section 4. Article XIII of the act is amended by adding
9 definitions to read:

10 ARTICLE XIII

11 As used herein, unless a different meaning clearly appears
12 from the context:

13 * * *

14 "Commission resources" shall mean commission-owned or
15 commission-leased equipment, including telephones, computer
16 hardware or software, copiers, scanners, fax machines, file
17 cabinets or other office furniture, cell phones, personal
18 digital assistants or similar electronic devices and office
19 supplies.

20 "Director" shall include the engineering director, bridge
21 directors, director of the Port of Philadelphia and Camden,
22 director of risk management and safety, director of human
23 resource services, director of information services, finance
24 director of Port Authority Transit Corporation, director of
25 revenue, director of finance, director of emergency management
26 and homeland security or any similar position created by the
27 commission.

28 "Doing business with the commission" shall include the
29 following:

30 (1) Matters concerning the commission's acquisition,

disposal or improvement of real property.

(2) The making of the commission's contracts or the settlement of claims related to commission's contracts.

(3) The procurement of commission supplies, equipment, services or professional services, including without limitation, legal, accounting and investment services.

(4) The initiation or settlement of litigation to which the commission is a party.

(5) The grant by the commission of a subsidy or privilege.

(6) The issuance and placement of commission debt obligations.

(7) The deposit of commission funds.

(8) Other transactions in which the commission has a financial interest.

"Employee" shall include all persons employed by the commission other than officers and directors.

"Officer" shall include the chief executive officer, deputy chief executive officer, corporate secretary, treasurer, chief public safety officer or police chief, chief financial officer, chief administrative officer, chief operating officer, the Port Authority Transit Corporation general manager and assistant general manager, general counsel or any similar position created by the commission.

"Political activity" shall mean an activity on behalf of a political party, candidate, political committee or campaign, which is intended to advance the interests of a specific party, candidate, political committee or campaign for elective office.

(1) The term shall include:

(a) Organizing a campaign meeting, campaign rally or other campaign event, including a fundraiser where campaign

1 contributions are solicited or received.

2 (b) Preparing or completing responses to candidate
3 questionnaires that are intended solely for campaign use.

4 (c) Preparing a campaign finance report.

5 (d) Conducting background research on a candidate.

6 (e) Preparing or conducting a campaign poll.

7 (f) Preparing, circulating or filing a candidate nominating
8 petition or papers.

9 (g) Participating in, preparing, reviewing or filing a legal
10 challenge to a nominating petition.

11 (h) Preparing, distributing or mailing campaign literature,
12 campaign signs or other campaign material, including television
13 and radio advertisements, website construction, e-mails,
14 facsimiles and robocalls, on behalf of any candidate for
15 elective office.

16 (i) Managing a campaign for elective office.

17 (j) Participating in, preparing, reviewing or filing a
18 document in a recount, challenge or contest of an election.

19 (k) Posting campaign-related information on a website,
20 including social media websites.

21 (l) Soliciting or receiving campaign contributions in a
22 commission office, on commission property or with commission
23 resources.

24 (m) Using commission resources to create, store or maintain
25 a mailing list that identifies the listed individuals as
26 campaign volunteers or contributors to a candidate, political
27 party, political committee, campaign or campaign committee.

28 (n) Developing a list for the purpose of monitoring or
29 tracking campaign activity or campaign contributions of any
30 commission employe.

1 (2) The term shall not include:

2 (a) Registering and voting in an election.

3 (b) Expressing an opinion as an individual privately and
4 publicly on political subjects and candidates.

5 (c) Displaying a political picture, sticker, badge or button
6 when not on duty and at locations other than the workplace and
7 commission property.

8 (d) Participating in the nonpartisan activities of a civic,
9 community, social, labor or professional organization or of a
10 similar organization.

11 (e) Being a member of a political party or other political
12 organization or club and participating in its activities to the
13 extent consistent with this compact.

14 (f) Attending a political convention, rally, fundraising
15 function or other political gathering.

16 (g) Signing a political petition as an individual.

17 (h) Making a financial contribution to a political party or
18 organization.

19 (i) Being politically active in connection with a question
20 which is not specifically identified with a political party,
21 such as any constitutional amendment, referendum, approval of a
22 municipal ordinance or other question or issue of a similar
23 character.

24 (j) Otherwise participating fully in public affairs, except
25 as prohibited by law, in a manner which does not materially
26 compromise efficiency or integrity as an employe or the
27 efficiency or integrity of the commission.

28 "Relative" shall mean any:

29 (a) Spouse, parent, parent-in-law, child, brother, sister,
30 aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law,

daughter-in-law, stepparent, stepchild, stepsibling, half sibling, whether related by blood, marriage or adoption, of a commissioner, officer, director or employe.

(b) Significant other of a commissioner, officer, director or employe.

(c) Individual residing in the same household as a commissioner, officer, director or employe.

* * *

Section 5. The Governor shall not enter into a supplemental compact or agreement on behalf of the Commonwealth of Pennsylvania until passage by the State of New Jersey of a substantially similar act embodying a supplemental compact or agreement between the two states.

Section 6. The Governor shall publish the date of approval by the Congress of the United States as prescribed by section 10 of Article I of the Constitution of the United States of any supplemental compact or agreement referenced in section 5 of this act as a notice in the Pennsylvania Bulletin.

Section 7. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) Section 5 of this act.

(ii) Section 6 of this act.

(iii) This section.

(2) The remainder of this act shall take effect upon publication of the notice provided for under section 6 of this act.