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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2069 Session of  
2020

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INTRODUCED BY ECKER, HENNESSEY, STRUZZI, ROTHMAN, MOUL, SCHLEGEL  
CULVER AND FRITZ, FEBRUARY 24, 2020

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REFERRED TO COMMITTEE ON TRANSPORTATION, FEBRUARY 24, 2020

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AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania  
2 Consolidated Statutes, in transportation infrastructure,  
3 establishing the Highway Bundling Program.

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

6 Section 1. Part V of Title 74 of the Pennsylvania  
7 Consolidated Statutes is amended by adding a chapter to read:

8 CHAPTER 97

9 DEPARTMENTAL PROGRAMS

10 Subchapter

11 A. Highway Bundling Program

12 B. (Reserved)

13 SUBCHAPTER A

14 HIGHWAY BUNDLING PROGRAM

15 Sec.

16 9701. Definitions.

17 9702. Bundling authorization.

18 9703. Highway Bundling Program.

1 § 9701. Definitions.

2 The following words and phrases when used in this subchapter  
3 shall have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Department." The Department of Transportation of the  
6 Commonwealth.

7 "Design-build contract." A contract in which the contractor  
8 is responsible for both the design and the construction,  
9 reconstruction, widening, repair or improvement of a highway.

10 "Determination." A decision by the department as to the  
11 eligibility, recommendation and inclusion in the program.

12 "Local government." A county, city, borough, town or  
13 township.

14 "Program." The Highway Bundling Program established by this  
15 subchapter.

16 § 9702. Bundling authorization.

17 Notwithstanding any other law, the department may bundle the  
18 design and construction, reconstruction, widening, repair or  
19 improvement of highways owned by the Commonwealth or an  
20 instrumentality of the Commonwealth or a local government as  
21 provided under this subchapter.

22 § 9703. Highway Bundling Program.

23 (a) Establishment.--The Highway Bundling Program is  
24 established within the department.

25 (b) Purpose.--The purpose of the program is to save costs  
26 and time by allowing multiple highways to be designed and  
27 constructed, reconstructed, widened, repaired or improved as one  
28 project for design and construction, reconstruction, widening,  
29 repair or improvement purposes.

30 (c) Eligibility.--Highways shall be eligible for the program

1 if the highways meet all of the following:

2 (1) Are within geographical proximity to each other.

3 (2) Inclusion in the program will further the purpose of  
4 the program.

5 (3) Bundling of the highways is determined to be  
6 feasible by the department.

7 (4) Any other eligibility requirement established by the  
8 department.

9 (d) Implementation.--The department shall implement the  
10 program as follows:

11 (1) The department shall annually develop a preliminary  
12 list from different regions of this Commonwealth, on a  
13 rotating basis, of highways meeting eligibility requirements.  
14 The department may also receive requests from local  
15 governments for the inclusion of highways owned by local  
16 governments in the program.

17 (2) The department shall notify local governments owning  
18 highways recommended for inclusion in that year's program.  
19 The notification shall include any local match or revenue-  
20 sharing requirement that may be necessary for participation  
21 in the program.

22 (3) Following receipt of notification from the  
23 department, the governing body of a local government shall  
24 have 60 days to agree or refuse to participate in the  
25 program. Failure to respond in writing within 60 days shall  
26 be considered a refusal to participate in the program.

27 (4) Based on the response from local governments under  
28 paragraph (3), the department shall make a determination of  
29 highways to be designed and constructed, reconstructed,  
30 widened, repaired or improved under the program and provide a

1 list of the highways to the appropriate planning  
2 organizations.

3 (5) A determination shall not be:

4 (i) considered to be an adjudication under 2 Pa.C.S.  
5 Chs. 5 Subch. A (relating to practice and procedure of  
6 Commonwealth agencies) and 7 Subch. A (relating to  
7 judicial review of Commonwealth agency action); or

8 (ii) appealable to the department or a court of law.

9 (6) A local government that agrees to participate in the  
10 program for one or more of its highways shall enter into an  
11 agreement with the department subject to the following:

12 (i) The agreement shall define the department's  
13 responsibility for the design and construction,  
14 reconstruction, widening, repair or improvement of the  
15 highways and the continuing ownership, maintenance, local  
16 match or revenue-sharing responsibilities of the local  
17 government for the highways included in the program.

18 (ii) The local government shall have 90 days  
19 following receipt of the agreement to execute and return  
20 the agreement to the department.

21 (iii) Failure to return an agreement executed by  
22 authorized local government officials under subparagraph  
23 (ii) shall be deemed a refusal to participate in the  
24 program.

25 (7) Upon full execution of an agreement under the  
26 program, the department shall manage the project design and  
27 construction, reconstruction, widening, repair or improvement  
28 in a manner consistent with the purpose of the program.

29 (e) Itemization.--Notwithstanding any other law, highways  
30 determined to be eligible and recommended for the program by the

1 department shall not require specific itemization in a capital  
2 budget.

3 (f) Design-build.--Notwithstanding any other law, highways  
4 included in the program may be designed and constructed,  
5 reconstructed, widened, repaired or improved through design-  
6 build contracts.

7 (g) Regulations.--In order to facilitate the implementation  
8 of this subchapter, the department may promulgate regulations or  
9 publish guidelines to implement any provision that is required  
10 under this subchapter or that the department determines is  
11 appropriate for implementation of this subchapter.

12 (h) Temporary regulations.--Notwithstanding any other  
13 provision of law, any regulation promulgated by the department  
14 under this subchapter during the two years following the  
15 effective date of this section shall be deemed a temporary  
16 regulation that expires no later than three years following the  
17 effective date of this section or upon promulgation of final  
18 regulations. The temporary regulations shall not be subject to  
19 the following:

20 (1) Sections 201, 202, 203 and 204 of the act of July  
21 31, 1968 (P.L.769, No.240), referred to as the Commonwealth  
22 Documents Law.

23 (2) The act of June 25, 1982 (P.L.633, No.181), known as  
24 the Regulatory Review Act.

25 SUBCHAPTER B

26 (Reserved)

27 Section 2. This act shall take effect in 60 days.