

Veto No. 2008-3

SB 740

October 17, 2008

To the Honorable Senate of the
Commonwealth of Pennsylvania:

I am returning Senate Bill 740, which authorizes the Department of General Services (DGS) to take seven specific actions with respect to Commonwealth lands, without my signature.

Among the authorizations included in Senate Bill 740 are the conveyance of certain lands located in Benner Township, Centre County, the sale to the highest responsible bidder of three parcels of land located in Benner Township, Centre County, the release of Project 70 restrictions on certain lands located in Lackawanna County, and the conveyance to the Schuylkill YMCA for \$160,000 of a tract of land and a building located in Pottsville, Schuylkill County. All of these transfers would accomplish significant and positive goals.

Also included in Senate Bill 740 are authorizations for two transfers in the City of Philadelphia – both located in or adjacent to the former United States Navy Base in South Philadelphia, which is currently undergoing a significant renaissance as a result of the efforts of the Philadelphia Industrial Development Corporation (PIDC).

The first of these authorizations allows DGS to deed for \$1 to the Philadelphia Regional Port Authority (PRPA) 16.89 acres of riparian rights in the Delaware River situated between Piers 122 and 124. This authorization will provide a vital piece of the land assemblage needed to develop “Southport” – a several hundred million dollar state of the art container shipping terminal to be developed through a public-private partnership that is expected to support thousands of new jobs in the City of Philadelphia. Specifically, transfer of these riparian rights to the PRPA and their inclusion in the Southport land assemblage will allow the creation of marginalized berths for container vessels on the Delaware. Without these riparian rights, Southport is not viable and would have to be abandoned.

The second authorization allows DGS to deed for \$1 to PRPA 305 acres of land situated in the eastern end of the Navy Yard. The Bill includes statements of legislative intent suggesting that these lands were river bed turned into fast lands by having fill placed upon them, and therefore are titled in the Commonwealth. The Bill also provides that lands transferred pursuant to the authorization shall be subject to a deed restriction that limits activities on the lands to “maritime purposes,” defined as “activities related to the handling, import, export and or transport of cargo or the transport of passengers within and through the Port of Philadelphia...”

I have been advised by DGS that it does not believe that the Bill’s finding that the Commonwealth holds title to the 305 acres is correct. Rather, DGS believes that the Philadelphia Authority for Industrial Development (PAID) actually holds title to the 305 acres in question. In fact, last year when a portion of the property was under consideration as the site of the Food Distribution Center, DGS was in direct negotiations with PAID through PIDC for a lease of the property. Not surprisingly, PAID and PIDC agree with DGS’s assessment and PAID has, over the course of the past couple of years, made transfers of land

and has granted long-term leases and development contracts to private entities based on that belief. In addition, title companies have recently issued millions of dollars of title insurance with respect to those transfers and grants, also based upon PAID's title to the property.

PIDC and PAID further assert that if Senate Bill 740 becomes law, the title dispute and the deed restrictions the Bill requires will place a cloud on title to the 305 acres, invite litigation, and delay further development at the Navy Yard and perhaps Southport as well. PIDC and other entities involved in development activities at the Navy Yard have requested that I veto the Bill in light of these concerns. I agree that uncertainties concerning title to the Navy Yard lands in question could threaten current development plans and hamper future development and, therefore, I have no choice but to veto the Bill.

The authors and proponents of Senate Bill 740 believe – correctly – that the transfer of 100 acres of land at the Navy Yard from PAID to PRPA is essential in obtaining significant interest in the future lease of Southport. I agree and understand their anxiety. Therefore, at my request, the Mayor of Philadelphia, Michael Nutter, has agreed that PAID will enter into an agreement of sale for those 100 acres to PRPA for no consideration, which will meet the goals of the speedy development of Southport. I am attaching a copy of the Mayor's letter which spells out this commitment. Additionally, the Mayor's letter indicates that the City will convey the needed riparian rights to PRPA around Piers 122 and 124 that are also included in the Bill.

The ongoing revitalization of the Navy Yard has brought hundreds of new jobs and significant investment to the City of Philadelphia and the Commonwealth, and the Southport transaction represents the future of the Port of Philadelphia – it will be a significant job creator and economic development engine for the region. Future development of the 305 acres – including planned PIDC development and PRPA plans for Southport – will require certainty that PAID holds title to the lands it intends to develop, and that PRPA holds title to the Southport lands. The viability of these initiatives could be threatened if this Bill is enacted with the General Assembly's findings that title to the 305 acres may in fact lie with the Commonwealth instead of with PAID.

I very much regret that my veto of SB 740 will mean that the five non-port related actions the legislation authorizes will also fall. However, I will work with the General Assembly when it returns for passage of the legislation needed for those worthy projects in a timely fashion.

EDWARD G. RENDELL