

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1823 Session of 2013

INTRODUCED BY D. EVANS AND WHEATLEY, NOVEMBER 8, 2013

REFERRED TO COMMITTEE ON TRANSPORTATION, NOVEMBER 8, 2013

AN ACT

1 Amending Titles 74 (Transportation) and 75 (Vehicles) of the
 2 Pennsylvania Consolidated Statutes, in administrative
 3 practice and procedure, further providing for minority and
 4 women-owned business participation and for job placement
 5 plan; in sustainable mobility options, further providing for
 6 fund; providing for Multimodal Transportation Funding;
 7 establishing the Multimodal Transportation Fund and the
 8 Balanced Intermodal Transportation Policy Commission; in
 9 Pennsylvania Turnpike, further providing for definitions and
 10 for deposit and distribution of funds; in liquid fuels and
 11 fuels tax, further providing for definitions; and in taxes
 12 for highway maintenance and construction, further providing
 13 for imposition of tax.

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

16 Section 1. Section 303 of Title 74 of the Pennsylvania
 17 Consolidated Statutes is amended to read:

18 § 303. [Minority and women-owned] Diverse business
 19 participation.

20 (a) General rule.--In [administering] bidding and awarding
 21 contracts for transportation projects funded pursuant to the
 22 provisions of this title or Title 75 (relating to vehicles), the
 23 department, the commission and any local transportation
 24 organization shall:

1 (1) Be responsible for ensuring that all competitive
2 contract opportunities issued by the department, the
3 commission or local transportation organization seek to
4 maximize participation by [minority-owned and women-owned
5 businesses and other disadvantaged] diverse businesses.

6 (1.1) Include in information and bid documents released
7 for bidding or solicitation on all competitive contracting
8 opportunities notice to the bidder that:

9 (i) A prime contractor is required to document and
10 submit all good faith efforts to solicit subcontractors
11 from diverse businesses during the prebid and bidding
12 process, which shall be evaluated by contracting
13 entities.

14 (ii) The prime contractor must include in the bid
15 the name and business address of each subcontractor
16 certified as a diverse business that will perform work or
17 labor, or render services to the prime contractor in
18 connection with the performance of the contract.

19 (2) [Give] Encourage contractors to utilize and give
20 consideration[, when possible and cost effective,] to
21 contractors offering to utilize [minority-owned and women-
22 owned businesses and disadvantaged] diverse businesses in the
23 selection and award of contracts.

24 (3) Ensure that the department's, the commission's and
25 local transportation organizations' commitment to [the
26 minority-owned and women-owned business program]
27 participation by diverse businesses is clearly understood and
28 appropriately implemented and enforced by all applicable
29 department, commission and local transportation organization
30 employees.

1 (4) Designate a responsible official to supervise the
2 department, the commission and local transportation
3 organization [minority-owned and women-owned] diverse
4 business program and ensure compliance within the department,
5 the commission or local transportation organization.

6 (5) [Furnish the Department of General Services, upon
7 request, all requested information or assistance.]
8 (Reserved).

9 (6) [Recommend sanctions to the Secretary of General
10 Services,] Impose sanctions as may be appropriate under 62
11 Pa.C.S. Pt. I (relating to Commonwealth Procurement Code),
12 against businesses that fail to comply with this section or
13 the policies of the Commonwealth [minority-owned and women-
14 owned] diverse business [program] programs. This paragraph
15 shall not apply to a local transportation organization.

16 (a.1) Additional duties of department.--The department, with
17 the assistance of the Disadvantage Business Enterprise
18 Supportive Services Center, shall have the following duties:

19 (1) Conduct the necessary and appropriate outreach,
20 including using the database available on the Internet
21 website of the Department of General Services, for purposes
22 of identifying diverse businesses in general construction
23 capable of performing contracts subject to this section.

24 (2) By October 1, 2014, and each October 1 thereafter,
25 submit a report to the chairman and minority chairman of the
26 Transportation Committee of the Senate and the chairman and
27 minority chairman of the Transportation Committee of the
28 House of Representatives summarizing the participation level
29 of diverse businesses in all competitive contract
30 opportunities issued by the department, the commission or

1 local transportation organization. The commission or local
2 transportation organization shall cooperate with the
3 department to complete the report. The report shall include:

4 (i) The percentage of participation by diverse
5 businesses.

6 (ii) The total value of all contracts or
7 subcontracts or other procurement contracts executed by
8 diverse businesses pursuant to this section in the prior
9 year.

10 (iii) The number of businesses penalized for
11 violating this section.

12 (3) Transmit the report under paragraph (2) to the
13 Minority Business Development Authority, established under
14 the act of July 22, 1974 (P.L.598, No.206), known as the
15 Pennsylvania Minority Business Development Authority Act. The
16 authority shall review the report to assess the effectiveness
17 in advancing this section and to make any recommendations for
18 changes in this section deemed necessary or desirable to the
19 secretary and the chairman and minority chairman of the
20 Transportation Committee of the Senate and the chairman and
21 minority chairman of the Transportation Committee of the
22 House of Representatives.

23 (a.2) Applicability.--The following shall apply to
24 contractors and contracts subject to subsection (a):

25 (1) The provisions of 62 Pa.C.S. § 2108 (relating to
26 compliance with Federal requirements).

27 (2) Prompt payment policies between a contractor and
28 subcontractor adopted by the Department of General Services
29 pursuant to 62 Pa.C.S. Pt. I.

30 (b) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this
2 subsection:

3 "Commission." As defined in section 8102 (relating to
4 definitions).

5 "Disadvantaged business." A business that is owned or
6 controlled by a majority of persons, not limited to members of
7 minority groups, who are subject to racial or ethnic prejudice
8 or cultural bias.

9 "Diverse business." A disadvantaged business, minority-owned
10 or women-owned business or service-disabled veteran-owned or
11 veteran-owned small business.

12 "Local transportation organization." Any of the following:

13 (1) A political subdivision or a public transportation
14 authority, port authority or redevelopment authority
15 organized under the laws of this Commonwealth or pursuant to
16 an interstate compact or otherwise empowered to render,
17 contract for the rendering of or assist in the rendering of
18 transportation service in a limited area in this
19 Commonwealth, even though it may also render or assist in
20 rendering transportation service in adjacent states.

21 (2) A nonprofit association that directly or indirectly
22 provides public transportation service.

23 (3) A nonprofit association of public transportation
24 providers operating within this Commonwealth.

25 "Minority-owned business." A business owned and controlled
26 by a majority of individuals who are African Americans, Hispanic
27 Americans, Native Americans, Asian Americans, Alaskans or
28 Pacific Islanders.

29 "Service-disabled veteran-owned small business." As defined
30 in 51 Pa.C.S. § 9601 (relating to definitions).

1 "Veteran-owned small business." As defined in 51 Pa.C.S. §
2 9601 (relating to definitions).

3 "Women-owned business." A business owned and controlled by a
4 majority of individuals who are women.

5 Section 2. Title 74 is amended by adding a section to read:
6 § 304. Job placement plan.

7 (a) Job placement plan.--In cooperation with the department,
8 the Department of Labor and Industry shall develop and implement
9 a plan, in conjunction with the Pennsylvania CareerLink system
10 or other programs, to help place individuals from population
11 groups with chronically high unemployment rates in jobs related
12 to transportation funding.

13 (b) Annual report.--The department and the Department of
14 Labor and Industry shall issue a joint report on the plan under
15 subsection (a) that shall include program measures to evaluate
16 the success of the program. On March 15 of every year, the
17 report shall be delivered to the Governor and members of the
18 General Assembly.

19 Section 2.1. Section 1506(b)(1), (c) and (e) of Title 74
20 are amended to read:

21 § 1506. Fund.

22 * * *

23 (b) Deposits to fund by department.--

24 (1) The following apply:

25 (i) Except as provided under subparagraph (ii), upon
26 receipt, the department shall deposit into the fund the
27 revenues received by the department under 75 Pa.C.S. Ch.
28 89 (relating to Pennsylvania Turnpike) and the lease
29 agreement executed between the department and the
30 Pennsylvania Turnpike Commission under 75 Pa.C.S. §

1 8915.3 (relating to lease of Interstate 80; related
2 agreements) as follows:

3 (A) For fiscal year 2007-2008, \$250,000,000.

4 (B) For fiscal year 2008-2009, \$250,000,000.

5 (C) For fiscal year 2009-2010, \$250,000,000.

6 (D) For fiscal year 2010-2011 and each fiscal
7 year thereafter, the amount calculated for the
8 previous fiscal year, increased by 2.5%.

9 (ii) The deposits made to the fund under this
10 subsection shall equal \$250,000,000 annually for each
11 fiscal year commencing after the expiration of the
12 conversion period if the conversion notice is not
13 received by the secretary prior to expiration of the
14 conversion period as set forth under 75 Pa.C.S. §
15 8915.3(3). Beginning in fiscal year 2014-2015 and each
16 fiscal year thereafter, the deposits shall equal
17 \$400,000,000 annually for each fiscal year.

18 * * *

19 (c) Other deposits.--The following shall be deposited into
20 the fund annually:

21 (1) 4.4% of the amount collected under Article II of the
22 Tax Reform Code. Revenues under this paragraph shall be
23 deposited into the fund by the 20th day of each month for the
24 preceding month. The amount deposited under this paragraph is
25 estimated to be equivalent to the money available to the
26 department from the following sources:

27 (i) The Supplemental Public Transportation Account
28 established under former section 1310.1 (relating to
29 supplemental public transportation assistance funding).

30 (ii) The amount appropriated annually by the

1 Commonwealth from the General Fund for mass transit
2 programs pursuant to a General Appropriations Act.

3 (1.1) In addition to the amount deposited under
4 paragraph (1), the following shall be deposited into the fund
5 by the 20th day of each month for the preceding month:

6 (i) For fiscal year 2014-2015, 1.1% of the amount
7 collected under Article II of the Tax Reform Code.

8 (ii) For fiscal year 2015-2016, 2.2% of the amount
9 collected under Article II of the Tax Reform Code.

10 (iii) For fiscal year 2016-2017 and each fiscal year
11 thereafter, 3.2% of the amount collected under Article II
12 of the Tax Reform Code.

13 (2) An amount of proceeds of Commonwealth capital bonds
14 as determined annually by the Secretary of the Budget.

15 (3) Revenue in the Public Transportation Assistance Fund
16 established under Article XXIII of the Tax Reform Code not
17 otherwise dedicated pursuant to law.

18 (4) Other appropriations, deposits or transfers to the
19 fund.

20 * * *

21 (e) Program funding amounts.--Subject to available funds,
22 the programs established under this chapter and the Multimodal
23 Transportation Fund established under Chapter 21 (relating to
24 Multimodal Transportation Funding) shall be funded or deposited
25 annually as follows:

26 (1) For the program established under section 1513
27 (relating to operating program), the following amounts shall
28 be allocated from the fund:

29 (i) [All] The first \$250,000,000 of revenues
30 deposited in the fund under subsection (b) (1).

1 (ii) All revenues deposited in the fund under
2 subsection (b) (2).

3 (iii) 69.99% of the revenues deposited in the fund
4 under subsection (c) (1).

5 (iv) All revenues deposited into the fund under
6 subsection (c) (3).

7 (2) (i) Except as provided under subparagraph (ii), for
8 the program established under section 1514 (relating to asset
9 improvement program):

10 (A) By the proceeds of Commonwealth capital
11 bonds deposited into the fund under subsection (c)
12 (2).

13 (A.1) For fiscal year 2007-2008, \$50,000,000
14 from the revenues received by the department under 75
15 Pa.C.S. Ch. 89 and the lease agreement executed
16 between the department and the Pennsylvania Turnpike
17 Commission under 75 Pa.C.S. § 8915.3. The amount
18 received by the department under this section shall
19 be deposited into the fund prior to distribution and
20 shall be in addition to the amounts received under
21 subsection (b) (1).

22 (B) For fiscal year 2008-2009, \$100,000,000 from
23 the revenues received by the department under 75
24 Pa.C.S. Ch. 89 and the lease agreement executed
25 between the department and the Pennsylvania Turnpike
26 Commission under 75 Pa.C.S. § 8915.3. The amount
27 received by the department under this section shall
28 be deposited into the fund prior to distribution and
29 shall be in addition to the amounts received under
30 subsection (b) (1).

1 (C) For fiscal year 2009-2010, \$150,000,000 from
2 the revenues received by the department under 75
3 Pa.C.S. Ch. 89 and the lease agreement executed
4 between the department and the Pennsylvania Turnpike
5 Commission under 75 Pa.C.S. § 8915.3. The amount
6 received by the department under this section shall
7 be deposited into the fund prior to distribution and
8 shall be in addition to the amounts received under
9 subsection (b)(1).

10 (D) For fiscal year 2010-2011 and each fiscal
11 year thereafter, the amount calculated for the prior
12 fiscal year increased by 2.5% from the revenues
13 received by the department under 75 Pa.C.S. Ch. 89
14 and the lease agreement executed between the
15 department and the Pennsylvania Turnpike Commission
16 under 75 Pa.C.S. § 8915.3. The amount received by the
17 department under this section shall be deposited into
18 the fund prior to distribution and shall be in
19 addition to the amounts received under subsection (b)
20 (1).

21 (ii) If the conversion notice is not received by the
22 secretary prior to the end of the conversion period as
23 set forth in 75 Pa.C.S. § 8915.3(3), [no additional
24 allocation shall be made under subparagraph (i).]
25 \$150,000,000 from the revenues received by the department
26 under 75 Pa.C.S. Ch. 89 and the lease agreement executed
27 between the department and the Pennsylvania Turnpike
28 Commission under 75 Pa.C.S. § 8915.3 and any revenue
29 under subsection (c)(1.1) not otherwise allocated.

30 (3) For the program established under section 1516

1 (relating to programs of Statewide significance), 13.24% of
2 the revenues deposited in the fund under subsection (c)(1)
3 shall be allocated from the fund.

4 (4) For the program established under section 1517
5 (relating to capital improvements program), 16.77% of the
6 revenues deposited in the fund under subsection (c)(1).
7 Additional funds for this program may be provided from the
8 funds allocated but not distributed based on the limitation
9 set forth under section 1513(c)(3).

10 (5) The following apply:

11 (i) For fiscal year 2014-2015, \$20,000,000 of the
12 amount deposited under subsection (c)(1.1) shall be
13 deposited in the Multimodal Transportation Fund.

14 (ii) For fiscal year 2015-2016, \$40,000,000 of the
15 amount deposited under subsection (c)(1.1) shall be
16 deposited in the Multimodal Transportation Fund.

17 (iii) For fiscal year 2016-2017 and each fiscal year
18 thereafter, \$80,000,000 of the amount deposited under
19 subsection (c)(1.1) shall be deposited in the Multimodal
20 Transportation Fund.

21 Section 3. Title 74 is amended by adding a chapter to read:

22 CHAPTER 21

23 MULTIMODAL TRANSPORTATION FUNDING

24 Sec.

25 2101. Multimodal Transportation Fund.

26 2102. Deposits to fund.

27 2103. Use of funds.

28 2104. Distribution of funds.

29 2105. Project selection criteria and agreement.

30 2106. (Reserved).

1 2107. Balanced Intermodal Transportation Policy Commission.

2 § 2101. Multimodal Transportation Fund.

3 A special fund is established within the State Treasury to be
4 known as the Multimodal Transportation Fund. Money in the fund
5 is appropriated to the Department of Transportation for the
6 purposes authorized under this chapter.

7 § 2102. Deposits to fund.

8 The following shall be deposited in the Multimodal
9 Transportation Fund:

10 (1) The amount under section 1506(e) (5) (relating to
11 fund).

12 (2) The amount under 75 Pa.C.S. § 9502 (relating to
13 imposition of tax).

14 (3) Other appropriations, deposits or transfers to the
15 fund.

16 (4) The interest earned on money in the fund.

17 § 2103. Use of funds.

18 Money in the fund shall be used by the Department of
19 Transportation as follows:

20 (1) To provide grants through the Department of
21 Transportation's programs relating to aviation, rail freight,
22 passenger rail, port and waterway, bicycle and pedestrian
23 facilities, road and bridge and other transportation modes.

24 (2) For costs incurred by the Department of
25 Transportation in the administration of a programs specified
26 under paragraph (1).

27 (3) To incur costs for activities initiated or
28 undertaken directly by the Department of Transportation
29 related to the programs under paragraph (1).

30 (4) For the commission established under section 2107

1 (relating to Balanced Intermodal Transportation Policy
2 Commission).

3 § 2104. Distribution of funds.

4 For fiscal year 2015-2016 and each fiscal year thereafter,
5 money deposited into the fund shall be distributed annually as
6 follows:

7 (1) Six million dollars shall be designated for programs
8 related to aviation.

9 (2) Ten million dollars shall be designated for programs
10 related to rail freight.

11 (3) Five and one-half million dollars shall be
12 designated for programs related to rail passengers.

13 (4) Eight million dollars shall be designated for
14 programs related to ports and waterways.

15 (5) Two million dollars for programs related to bicycle
16 and pedestrian facilities.

17 (6) The remaining revenues shall be designated for
18 eligible programs under this chapter.

19 (7) The Department of Transportation may provide grants
20 from money available under paragraph (6) for the following:

21 (i) Projects which coordinate local land use with
22 transportation assets to enhance existing communities.

23 (ii) Streetscape, lighting, sidewalk enhancement,
24 pedestrian safety and related projects.

25 (iii) Projects improving connectivity or utilization
26 of existing transportation assets.

27 § 2105. Project selection criteria and agreement.

28 Except as provided in section 2107 (relating to Balanced
29 Intermodal Transportation Policy Commission), the Department of
30 Transportation shall award grants under this chapter on a

1 competitive basis. The Department of Transportation may not
2 reserve, designate or set aside a specific level of funds or
3 percentage of funds to an applicant prior to the completion of
4 the application process, nor may the Department of
5 Transportation designate a set percentage of funds to an
6 applicant.

7 § 2106. (Reserved).

8 § 2107. Balanced Intermodal Transportation Policy Commission.

9 (a) Commission.--There is established a Balanced Intermodal
10 Transportation Policy Commission to study and make
11 recommendations on developing a balanced intermodal
12 transportation policy for this Commonwealth.

13 (b) Members.--The commission shall consist of the following
14 members:

15 (1) The Secretary of Transportation.

16 (2) The Secretary of Community and Economic Development.

17 (3) The Secretary of Environmental Protection.

18 (4) One appointment from each of the following:

19 (i) the Majority Leader of the Senate;

20 (ii) the Minority Leader of the Senate;

21 (iii) the Majority Leader of the House of

22 Representatives; and

23 (iv) the Minority Leader of the House of

24 Representatives.

25 (5) Five appointments from the Governor, at least one of
26 which must have expertise in regional planning.

27 (6) Ten additional members may be appointed by the
28 commission members under paragraphs (1), (2), (3), (4) and
29 (5).

30 (c) Chairperson.--The members of the commission under

1 paragraphs (1), (2), (3), (4) and (5) shall elect a chairperson
2 from among the members.

3 (d) Terms.--Members of the commission may serve on the
4 commission until replaced by an appointing authority under
5 subsection (b).

6 (e) Study.--The commission shall study all of the following:

7 (1) Facets on implementing balanced intermodal
8 transportation policies for metropolitan areas in this
9 Commonwealth, which shall include at least the cities of the
10 first class and second class, but may include other regions
11 as well.

12 (2) The feasibility of consolidating local
13 transportation organizations and mutual cooperation
14 agreements among local transportation organizations. The
15 study shall examine the creation of service regions to
16 determine whether consolidation would result in reduced
17 annual expenses or better services.

18 (f) Staff.--Upon recommendation of the commission, the
19 Secretary of Transportation may hire independent consultants to
20 aid the work of the commission. The commission shall be staffed
21 by employees of the Department of Transportation. Ordinary
22 expenses shall be paid to members of the commission.

23 (g) Report.--No later than two years after the effective
24 date of this section, the commission shall issue a report to the
25 Governor and members of the General Assembly.

26 Section 3.1. The definition of "annual base payments" in
27 section 8901 of Title 75 is amended to read:

28 § 8901. Definitions.

29 The following words and phrases when used in this chapter
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 * * *

3 "Annual base payments." An amount equal to the sum of the
4 following:

5 (1) Annual debt service on outstanding bonds issued
6 under section 9511.2 (relating to special revenue bonds)
7 payable as required pursuant to the bonds.

8 (2) Two hundred million dollars payable annually in four
9 equal installments each due the last business day of each
10 July, October, January and April and ending April 30, 2014.

11 (3) Beginning July 2014, \$150,000,000 payable annually
12 in four equal installments each due the last business day of
13 each July, October, January and April.

14 * * *

15 Section 4. Section 8915.6(a) of Title 75 is amended to read:
16 § 8915.6. Deposit and distribution of funds.

17 (a) Deposits.--Upon receipt by the department, the following
18 amounts from the scheduled annual commission contribution shall
19 be deposited in the Motor License Fund:

20 (1) For fiscal year 2007-2008, \$450,000,000.

21 (2) For fiscal year 2008-2009, \$500,000,000.

22 (3) For fiscal year 2009-2010, \$500,000,000.

23 (4) For fiscal [year 2010-2011 and each fiscal year
24 thereafter,] years 2010-2011, 2011-2012, 2012-2013 and 2013-
25 2014, the amount calculated for the previous year increased
26 by 2.5%.

27 (5) For fiscal year 2014-2015 and each fiscal year
28 thereafter, \$0.

29 * * *

30 Section 4.1. The definition of "average wholesale price" in

1 section 9002 of Title 75 of the Pennsylvania Consolidated
2 Statutes is amended to read:

3 § 9002. Definitions.

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

7 * * *

8 "Average wholesale price." The average wholesale price per
9 gallon of all taxable liquid fuels and fuels, excluding the
10 Federal excise tax and all liquid fuels taxes, as determined by
11 the Department of Revenue for the 12-month period ending on the
12 September 30 immediately prior to January 1 of the year for
13 which the rate is to be set. In no case shall the average
14 wholesale price be less than 90¢ nor more than \$1.25 per
15 gallon[.], except as follows:

16 (1) For the period beginning July 1, 2014, and ending
17 December 31, 2014, the average wholesale price shall be
18 \$1.87.

19 (2) For calendar years 2015 and 2016, the average
20 wholesale price shall be \$2.49 per gallon.

21 (3) For calendar year 2017 and each calendar year
22 thereafter, the average wholesale price shall be as
23 determined by the Department of Revenue for the 12-month
24 period ending on the September 30 immediately prior to
25 January 1 of the year for which the rate is to be set. In no
26 case shall the average wholesale price be less than \$2.49.

27 * * *

28 Section 5. Section 9502(a)(1) of Title 75 is amended to
29 read:

30 § 9502. Imposition of tax.

1 (a) General rule.--

2 (1) An "oil company franchise tax for highway
3 maintenance and construction" which shall be an excise tax of
4 60 mills is hereby imposed upon all liquid fuels and fuels as
5 defined and provided in Chapter 90 (relating to liquid fuels
6 and fuels tax), and such tax shall be collected as provided
7 in section 9004(b) (relating to imposition of tax, exemptions
8 and deductions). Of the amount collected in fiscal year 2015-
9 2016, and each fiscal year thereafter, \$20,000,000 shall be
10 deposited into the Multimodal Transportation Fund established
11 under 74 Pa.C.S. § 2101 (relating to Multimodal
12 Transportation Fund), to be expended in accordance with
13 section 11 of Article VIII of the Constitution of
14 Pennsylvania.

15 * * *

16 Section 6. This act shall take effect in 60 days.