

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1246 Session of 2024

INTRODUCED BY KEARNEY, BREWSTER, COSTA, FONTANA, KANE, CAPPELLETTI AND SAVAL, JUNE 7, 2024

AS AMENDED ON SECOND CONSIDERATION, JUNE 25, 2024

AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania
2 Consolidated Statutes, in sustainable mobility options,
3 establishing the State Safety Oversight Office and providing
4 for its powers and duties.

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

7 Section 1. Title 74 of the Pennsylvania Consolidated
8 Statutes is amended by adding a section to read:

9 § 1510.1. State Safety Oversight Office.

10 (a) Establishment.--The State Safety Oversight Office is
11 established in the department and shall be under the
12 jurisdiction of the secretary. The secretary, in consultation
13 with the Federal Transit Administration, shall determine an
14 appropriate staffing level for the SSO Office that is
15 commensurate with the number, size and complexity of fixed
16 guideway public transportation systems in this Commonwealth. The
17 SSO Office shall adhere to and have the authority and capability
18 to perform and enforce the provisions and functions specified
19 under this section, 49 U.S.C. § 5329 (relating to public

1 transportation safety program) and the associated Federal
2 regulations set forth and adopted for oversight for each fixed
3 guideway public transportation system.

4 (b) Program standard.--The SSO Office shall establish,
5 adopt, administer and enforce the SSO program standard in a
6 manner that meets, but does not exceed, Federal requirements. <--
7 CONSISTENT WITH, BUT WHICH DOES NOT EXCEED, THE REQUIREMENTS SET <--
8 BY THE FEDERAL TRANSIT ADMINISTRATION AND ALL APPLICABLE FEDERAL
9 AND STATE LAW. The SSO Office shall annually review and consult
10 with each fixed guideway public transportation system that the
11 SSO Office oversees in the development of the SSO program
12 standard. The consultation under this subsection must
13 demonstrate, in writing, that the SSO Office has taken each
14 fixed guideway public transportation system's comments, concerns
15 and feedback under good faith consideration in further adopting,
16 implementing and maintaining the SSO program standard.

17 (c) Risk-based inspections, investigations, audits, testing
18 and other oversight activities.--

19 (1) The SSO Office shall conduct risk-based inspections,
20 investigations, audits and other oversight activities at each
21 fixed guideway public transportation system.

22 (2) In carrying out the requirements under this
23 subsection, the SSO Office shall enter the facilities of each
24 fixed guideway public transportation system, AT REASONABLE <--
25 TIMES AND IN A REASONABLE MANNER, either physically or
26 virtually, to inspect infrastructure, equipment, records,
27 personnel and data, including the data that the fixed
28 guideway public transportation system collects when
29 identifying and evaluating safety risks and safety events,
30 with or without advanced notice to the fixed guideway public

1 transportation system. THE SSO OFFICE SHALL BE ACCOMPANIED BY <--
2 TRAINED AND CERTIFIED EMPLOYEES OF THE FIXED GUIDEWAY PUBLIC
3 TRANSPORTATION SYSTEM, AS DEEMED APPROPRIATE BY THE FIXED
4 GUIDEWAY PUBLIC TRANSPORTATION SYSTEM, UPON ARRIVAL AT THE
5 LOCATION WHERE THE INSPECTION WILL BE CONDUCTED.

6 (3) The following shall apply:

7 (i) The SSO Office shall ensure that all official
8 personnel, including representatives or contractors,
9 engaged to enter onto the property of a fixed guideway
10 public transportation system wear appropriate safety
11 attire as determined in the SSO program standards.

12 ~~(ii) The SSO Office shall establish rules for the <--~~
13 ~~hiring and retention of official personnel in the SSO~~
14 ~~program standard to conduct activities on its behalf,~~
15 ~~which shall include a minimum of five (5) years of~~
16 ~~experience in engineering, operational or safety~~
17 ~~oversight. The SSO program standard may propose~~
18 ~~additional training and operational experience if the SSO~~
19 ~~Office attempts to and cannot find qualified personnel~~
20 ~~who meet the minimum experience requirement. The rules~~
21 ~~shall also establish requirements for safety and security~~
22 ~~background checks, which shall certify official~~
23 ~~personnel's access to both public and nonpublic portions~~
24 ~~of the fixed guideway public transportation system's~~
25 ~~infrastructure, equipment, records, personnel and data.~~

26 ~~(iii) Official personnel of the SSO Office may not~~
27 ~~enter nonpublic portions of fixed guideway public~~
28 ~~transportation system facilities or properties without an~~
29 ~~escort designated by the subject fixed guideway public~~
30 ~~transportation system.~~

1 ~~(iv)~~ (II) Official personnel of the SSO Office may <--
2 not have direct access to the networks and computer
3 systems of the fixed guideway public transportation
4 system. UNLESS AUTHORIZED BY AND IN A FORMAT DEEMED <--
5 APPROPRIATE BY THE FIXED GUIDEWAY PUBLIC TRANSPORTATION
6 SYSTEM. Data requested by the SSO Office and provided by
7 the fixed guideway public transportation system shall be
8 accompanied by a written certification of the data's
9 completeness and accuracy.

10 ~~(v)~~ To the extent that official personnel of the SSO <--
11 Office, either intentionally or negligently, cause
12 personal injury, property damage, a data breach or other
13 damage to a fixed guideway public transportation system
14 or a third party in the performance of their duty under
15 this section, the department shall be liable for all
16 damages.

17 (III) IF DEPARTMENT PERSONNEL ENGAGE IN ANY ACTS <--
18 PROVIDED FOR UNDER 42 PA.C.S. § 8522 (RELATING TO
19 EXCEPTIONS TO SOVEREIGN IMMUNITY), THE DEPARTMENT SHALL
20 BE LIABLE FOR DAMAGES AS PROVIDED FOR UNDER 42 PA.C.S.
21 CH. 85 (RELATING TO MATTERS AFFECTING GOVERNMENT UNITS).
22 THE FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEM SHALL
23 RETAIN ALL COMMON LAW AND STATUTORY RIGHTS AND REMEDIES
24 TO PURSUE CAUSES OF ACTION FOR RECOVERY OF DAMAGES THAT
25 MAY BE CAUSED BY DEPARTMENT CONTRACTORS.

26 (4) The SSO Office shall establish in the SSO program
27 standard policies specifying the qualifications of
28 inspectors, protocol for inspecting public and nonpublic
29 portions of fixed guideway public transportation systems and
30 the secure transfer and administration of public

1 transportation system data.

2 (d) Failure to comply.--If a fixed guideway public
3 transportation system fails to comply with relevant safety-
4 related Federal and State laws and the SSO program standard, the
5 SSO Office may:

6 (1) Issue a safety directive requiring the fixed
7 guideway public transportation system to correct the safety
8 deficiency.

9 (2) Require the prioritization and utilization of State
10 funding to correct the safety deficiency.

11 (3) Issue temporary orders to reduce or stop service of
12 the fixed guideway public transportation system.

13 (e) Enforcement action.--In response to an imminent threat
14 to the safety of fixed guideway public transportation system
15 employees or the general public by an unacceptable hazardous
16 condition, the SSO Office shall issue and enforce temporary
17 actions or directives to the fixed guideway public
18 transportation system.

19 ~~(f) Oversight.~~

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20 ~~(1) The SSO Office shall oversee a fixed guideway public~~
21 ~~transportation system's execution of security assessments and~~
22 ~~mitigations as described in and limited to the fixed guideway~~
23 ~~public transportation system's security and emergency~~
24 ~~preparedness plan and in safety and security certification~~
25 ~~processes for new capital projects being developed and~~
26 ~~constructed by the fixed guideway public transportation~~
27 ~~system.~~

28 ~~(2) The SSO Office's security oversight may not extend~~
29 ~~beyond what is provided under paragraph (1) except to the~~
30 ~~extent required by Federal law, regulation or directive and~~

~~may not conflict with security requirements or oversight developed by the Transportation Security Administration under the United States Department of Homeland Security.~~

(F) SECURITY AND EMERGENCY PREPAREDNESS PLAN OVERSIGHT.--THE <--

SSO OFFICE SHALL OVERSEE THE FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEM'S IMPLEMENTATION OF AND COMPLIANCE WITH THE FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEM'S SECURITY AND EMERGENCY PREPAREDNESS PLAN AS IT RELATES TO THE FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEM AND DOES NOT CONFLICT WITH OR EXCEED SECURITY AND EMERGENCY PREPAREDNESS PLAN REQUIREMENTS DEVELOPED AND ADMINISTERED BY THE TRANSPORTATION SECURITY ADMINISTRATION UNDER THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.

(G) SAFETY AND SECURITY CERTIFICATION.--THE SSO OFFICE SHALL OVERSEE A FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEM'S EXECUTION OF SAFETY AND SECURITY CERTIFICATION PROCESSES FOR NEW CAPITAL PROJECTS BEING DEVELOPED AND CONSTRUCTED FOR THE FIXED GUIDEWAY PUBLIC TRANSPORTATION SYSTEM AND DO NOT CONFLICT WITH OR EXCEED THE SECURITY CERTIFICATION DEVELOPED AND ADMINISTERED BY THE TRANSPORTATION SECURITY ADMINISTRATION UNDER THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.

(H) SSO OFFICE'S SECURITY OVERSIGHT LIMITATIONS.--THE SSO OFFICE'S SECURITY OVERSIGHT MAY NOT EXCEED WHAT IS PROVIDED FOR UNDER SUBSECTIONS (F) AND (G) EXCEPT TO THE EXTENT ADDITIONAL STATE SECURITY OVERSIGHT IS REQUIRED BY FEDERAL LAW, REGULATION OR DIRECTIVE.

~~(I) Confidentiality.--Data and reports generated by or~~ <--
submitted to the SSO Office and not made publicly available under this section and pertaining to security of a fixed guideway public transportation system or its passenger

1 operations, are not:

2 (1) Subject to access under the act of February 14, 2008
3 (P.L.6, No.3), known as the Right-to-Know Law.

4 (2) Discoverable or admissible as evidence in any third-
5 party legal action or other proceeding for damages.

6 (h) Appeal process. <--

7 (1) Each fixed guideway public transportation system
8 shall have the right and ability to directly petition the
9 secretary when the fixed guideway public transportation
10 system disagrees with any SSO program standard update adopted
11 by the SSO Office or compliance or enforcement action taken
12 by the SSO Office. The secretary shall respond with a written
13 decision in response to a petition in a timely manner.

14 (2) Each fixed guideway public transportation system
15 shall have the right and ability to directly petition
16 Commonwealth Court to review any program update implemented
17 or compliance or enforcement action taken by the department
18 or the SSO Office that the fixed guideway public
19 transportation system believes was entered into in an
20 arbitrary or capricious manner or otherwise without adequate
21 support in fact or law.

22 (J) APPEAL PROCESS.--EACH FIXED GUIDEWAY PUBLIC <--

23 TRANSPORTATION SYSTEM SHALL HAVE THE RIGHT AND ABILITY TO
24 DIRECTLY PETITION TO THE DEPARTMENT WHEN THE FIXED GUIDEWAY
25 PUBLIC TRANSPORTATION SYSTEM DISAGREES WITH ANY SSO PROGRAM
26 STANDARD UPDATE ADOPTED BY THE SSO OFFICE OR COMPLIANCE OR
27 ENFORCEMENT ACTION TAKEN BY THE SSO OFFICE. THE FOLLOWING APPLY:

28 (1) UPON PETITION, THE FIXED GUIDEWAY PUBLIC
29 TRANSPORTATION SYSTEM SHALL BE AFFORDED A HEARING IN
30 ACCORDANCE WITH 2 PA.C.S. CH. 5 SUBCH. A (RELATING TO

1 PRACTICE AND PROCEDURE OF COMMONWEALTH AGENCIES).

2 (2) AFTER THE HEARING, THE DEPARTMENT SHALL RESPOND IN A
3 TIMELY MANNER WITH A WRITTEN DECISION IN ACCORDANCE WITH 2
4 PA.C.S. § 507 (RELATING TO CONTENTS AND SERVICE OF
5 ADJUDICATIONS).

6 (3) THE DECISION OF THE DEPARTMENT SHALL BE SUBJECT TO
7 APPEAL IN ACCORDANCE WITH 2 PA.C.S. CH. 7 SUBCH. A (RELATING
8 TO JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

9 ~~(i)~~ (K) Definitions.--As used in this section, the following <--
10 words and phrases shall have the meanings given to them in this
11 subsection unless the context clearly indicates otherwise:

12 "Fixed guideway nonrail public transportation system." As
13 follows:

14 (1) Any of the following:

15 (i) Route 103 Busway operated by the transportation
16 authority of the metropolitan area as defined in section
17 1701 (relating to definitions).

18 (ii) Martin Luther King, Jr., East Busway operated
19 by the local transportation organization organized and
20 existing under the act of April 6, 1956 (1955 P.L.1414,
21 No.465), known as the Second Class County Port Authority
22 Act.

23 (iii) South Busway operated by the local
24 transportation organization organized and existing under
25 the Second Class County Port Authority Act.

26 (iv) West Busway operated by the local
27 transportation organization organized and existing under
28 the Second Class County Port Authority Act.

29 (v) Other busways designed and constructed by the
30 transportation authority of the metropolitan area as

1 defined under section 1701 or the local transportation
2 organization organized and existing under the Second
3 Class County Port Authority Act that meet the definition
4 of a "bus rapid transit" system as defined by the
5 National Transit Database and which operates on a fixed
6 guideway.

7 (2) Any other busway project that has entered the
8 preliminary engineering phase.

9 "Fixed guideway public transportation system." Fixed
10 guideway nonrail public transportation systems and rail-fixed
11 guideway public transportation systems.

12 "Rail-fixed guideway public transportation system." As
13 follows:

14 (1) A fixed guideway system that:

15 (i) Uses rail.

16 (ii) Is operated for public transportation.

17 (iii) Is operated within this Commonwealth.

18 (iv) Is not subject to the jurisdiction of the
19 Federal Railroad Administration.

20 (2) Any system described under paragraph (1) that is in
21 the engineering or construction phase.

22 "Safety and security certification." A series of processes
23 that collectively verify the safety and security readiness
24 associated with a capital project.

25 "Security and emergency preparedness plan." A document
26 developed and adopted by a rail-fixed guideway public
27 transportation system describing security and emergency
28 preparedness policies, objectives, responsibilities and
29 procedures.

30 "SSO Office." The State Safety Oversight Office established

1 under this section.

2 "SSO program standard." A document established and enforced
3 by the SSO Office that identifies the processes and procedures
4 that govern the activities of the SSO Office and includes
5 minimum safety standards, policies and procedures that meet, but <--
6 do not exceed, Federal requirements ARE CONSISTENT WITH, BUT <--
7 WHICH DO NOT EXCEED, THE REQUIREMENTS SET BY THE FEDERAL TRANSIT
8 ADMINISTRATION for fixed guideway public transportation systems
9 within the SSO Office's oversight jurisdiction. AND ALL <--
10 APPLICABLE FEDERAL AND STATE LAW.

11 Section 2. This act shall take effect immediately.