

No. 1990-197

AN ACT

SB 1711

Providing for a port district in the southwestern portion of the Commonwealth; establishing the Port of Pittsburgh Commission and providing for its powers and duties; establishing the Port of Pittsburgh Development Fund; and further establishing the Pittsburgh Regional Intermodal Freight Corporation.

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

Section 1. Short title.

This act shall be known and may be cited as the Port of Pittsburgh Commission Act.

Section 2. Definitions.

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

“Commission.” The Port of Pittsburgh Commission.

“Intermodal Corporation” or “corporation.” The Pittsburgh Regional Intermodal Freight Corporation, created by the Port of Pittsburgh Commission, formed as a public nonprofit corporation to promote intermodal freight opportunities, operations and facilities and qualified under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3) et seq.).

“Port.” Transportation infrastructure and facilities supporting goods movement by truck, rail, barge and airfreight.

Section 3. Port district boundaries.

The port district shall include those counties with significant truck, rail, barge and airfreight transportation facilities and operations in the Pittsburgh region that are contiguous to the Monongahela River from the West Virginia border to its confluence with the Ohio River; the counties contiguous to the Allegheny River from the head of navigation to its confluence with the Ohio River; and the counties contiguous to the Ohio River to the West Virginia-Ohio border at mile 40. These counties shall include Allegheny, Armstrong, Beaver, Butler, Clarion, Fayette, Greene, Lawrence, Washington and Westmoreland.

Section 4. Purpose of commission and corporation.

(a) Purposes of commission enumerated.—It shall be the purpose of the commission:

(1) To promote the general welfare, encourage public and private capital investment along the rivers for fostering the creation of industrial facilities and industrial parks and promote the establishment of a foreign trade zone within the port district.

(2) To promote adequate docks, railroad, truck, air freight and intermodal facilities open to all upon reasonable and equal terms for the handling, storage, care and shipment of freight and passengers to, from and through the port with the purpose of increasing commerce and commercial interests.

(3) To promote cooperation and common objectives of the ports of Pittsburgh, Erie and Philadelphia.

(4) To promote the development of recreational facilities in the port district to increase public access and development options.

(5) To promote the rivers as highways of commerce with the purpose of increasing freight and passenger commerce, and for this purpose the publication of literature and the adoption of any other means may be deemed appropriate.

(6) To sponsor, support and advise the Intermodal Corporation.

(7) To accept gifts, grants and donations on behalf of the Intermodal Corporation.

(8) To elect a chairman, vice chairman, secretary and treasurer and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

(9) To disburse funds for its lawful activities and fix salaries and wages of its employees.

(b) Purposes of corporation enumerated.—The purpose of the Intermodal Corporation shall be as follows:

(1) To have and exercise all rights, powers and duties of a public non-profit corporation in this Commonwealth.

(2) To perform detailed market research and plan for the future development and improvement of the port and to coordinate these plans with State, regional and local programs as necessary.

(3) To market the region's freight movement capabilities and to promote increased commerce to, from and through the port and promote value-added services within the region.

(4) To evaluate the economic impacts of freight transportation on the region.

(5) To facilitate and promote awareness of new cost-effective technologies for goods movement.

(6) To explore and, when appropriate, implement the creation of major intermodal facilities and upgrade existing facilities.

(7) To consider and formulate plans for future development and improvement of freight, transportation and related facilities in the port district and to coordinate these plans with State, regional and local entities as may be necessary.

(8) To study and make recommendations to the proper authorities for the improvement of terminals, warehouses and other facilities necessary for the promotion of commerce in the port district.

(9) To create a focus for and promote private and public cooperative efforts in the area of freight movements and related commerce.

(10) To foster improved communication both between the public and private sectors and within each.

(11) To support private sector freight operations.

(12) To increase modal competition within the region.

(13) To increase the region's national and international competitiveness in goods movement.

(14) To increase inter-regional and intra-regional freight transportation and goods movement.

(15) To represent the Intermodal Corporation before all Federal, State and local agencies.

(16) To accept grants, gifts and donations from the commission and others.

(17) To elect a chairman, vice chairman, secretary and treasurer and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the corporation.

(18) To disburse funds for its lawful activities and fix salaries and wages of its employees.

Section 5. Additional powers and duties of commission and corporation.

(a) General rule.—The powers and duties of the commission and the corporation shall be as follows:

(1) To contract and be contracted with and to sue and be sued.

(2) To adopt and use and alter at will corporate seals.

(3) To establish a principal office and such other office or offices as may be necessary for the carrying out of their duties.

(4) To acquire, purchase, hold, lease as lessee and use any franchise, property, real, personal or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the commission and corporation and to sell, lease as lessor, transfer and dispose of any property, or interest therein, at any time required by them.

(5) To acquire by purchase, lease or otherwise and to construct, improve, maintain, and repair and operate such facilities when no private sector operator exists, as outlined in paragraph (19).

(6) To employ such staff and other assistance as they may deem advisable. The commission and corporation may also contract with independent contractors for any of the foregoing assistance.

(7) To borrow money, make and issue negotiable notes, bonds, refunding bonds and other evidences of indebtedness or obligations of the commission, and to secure the payment of such bonds, by pledge or deed of trust of all or any of their revenues, rentals and receipts, and to make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds whether issued or to be issued as the commission and corporation shall deem advisable and, in general, to provide for the security for these bonds and the rights of the holders thereof.

(8) To accept gifts, grants, loans or contributions from the United States of America, the Commonwealth of Pennsylvania, political subdivisions, municipalities, foundations or other public or private agencies, individuals, partnerships or corporations.

(9) To pledge, hypothecate or otherwise encumber all or any of the revenues or receipts of the commission and corporation as security for all or any of the obligations of the commission and corporation.

(10) To do all acts and things necessary for the promotion of their business and the general welfare of the commission and corporation to carry out the powers granted to them by this act or any other acts.

(11) To enter into contracts on such terms as the commission and corporation shall deem proper for the use of any facility of the commission and corporation and fixing the amount to be paid therefor.

(12) To enter into contracts for group insurance for the benefit of their employees or to set up a retirement or pension fund or any other employee benefit arrangement for such employees.

(13) To provide for membership in any official, industrial, commercial or trade association or any other organizations concerned with such purposes for receptions of officials or others as may contribute to the advancement of the port district and any industrial development therein and for such other public relations activities as will promote the same, and such activities shall be considered a public purpose.

(14) To represent the port district before all Federal, State and local agencies.

(15) To cooperate with other public agencies and with industry, business and labor in port district improvement matters.

(16) To improve navigable and nonnavigable areas as regulated by Federal or State statute.

(17) To self-insure or provide insurance for any property or operations against any risks or hazards.

(18) To enter into agreements with any public utility operating a railroad or any other transportation facility wholly or partially within the port area for the joint or exclusive use of any property of the commission or corporation or the public utility or the establishment of routes over the rights-of-way of the public utility or the commission or the establishment of joint rates.

(19) To establish for the purpose of planning, coordinating, acquiring, holding, constructing, improving, maintaining and operating, owning and leasing, either as a lessee or a lessor, port facilities and equipment and recreational and commercial properties of significance to the port district upon the determination of the commission when no such private operator exists in the port district and when such an operation would not compete with private corporations.

(20) To develop programs designed solely to advertise, promote, stimulate the development of the use of the port and to join and to authorize their agents or employees to join trade and professional organizations organized for the purpose of promoting the betterment of port facilities and the improvement of the efficiency of persons connected with or employed by the port.

(21) To make expenditures anywhere in the United States and foreign countries, to pay commissions and hire or contract with experts and con-

sultants and otherwise to do indirectly anything the commission or corporation may do directly.

(22) To cooperate with other public agencies and with industry, business and labor in port district improvement matters.

(23) To disburse funds for their lawful activities and fix salaries and wages of its employees.

(24) To self-insure or provide insurance for any property or operations of the commission and corporation against any risk or hazard.

(25) To initiate or support international trade and to utilize the advantages associated with foreign trade zone 33.

(26) To enter into agreements with other ports.

(27) To deal effectively with regulatory issues and restrictions detrimental to the port and to promote new regulations and restrictions beneficial to the port.

(28) To generate revenue to compensate for all or part of their administrative planning, promotional and other expenses.

(b) Exclusion.—Notwithstanding any general or specific powers granted to the commission or the corporation by this act or any other act, whether express or implied:

(1) The commission and the corporation, whether jointly or severally, shall have no power, at any time or in any manner, to pledge the credit or taxing power of the Commonwealth or any political subdivision.

(2) No obligations of either the commission or the corporation shall be deemed to be obligations of the Commonwealth or of any of its political subdivisions.

(3) The Commonwealth or any political subdivision thereof shall not be liable for the payment of principal or interest on obligations of either the commission or the corporation.

Section 6. Relationship.

The relationship of the Intermodal Corporation to the commission is as follows:

(1) The corporation may receive funding from the commission.

(2) The corporation will receive policy advice on intermodal freight matters from the commission.

(3) The corporation will provide annual reports to the commission.

Section 7. Use of funds.

The commission or corporation shall not use public funds to subsidize any public or private entity so as to create unfair competition with private interests.

Section 8. Governing body of commission.

(a) Composition.—The commission shall be composed of 19 voting members and two nonvoting ex officio members, who shall be residents of the Commonwealth and serve at the pleasure of the respective appointing authority.

(b) Appointment.—Members shall be appointed as follows:

(1) One member shall be appointed by the President pro tempore of the Senate.

(2) One member shall be appointed by the Minority Leader of the Senate.

(3) One member shall be appointed by the Speaker of the House of Representatives.

(4) One member shall be appointed by the Minority Leader of the House of Representatives.

(5) Eleven members shall be appointed by the Governor. One member shall be selected from a list of three nominees, one each by the boards of county commissioners of the ten counties included within the commission's boundaries and the Mayor of the City of Pittsburgh. Such nominees shall have experience within the areas of industry, commerce or recreation, in addition to knowledge related to waterways development.

(6) Four additional members shall be appointed by the Governor. In the event that any of the organizations outlined in subparagraphs (i) through (iv) are not represented on the commission, the Governor shall ensure representation by those organizations by making an appointment from a list provided by each of the unrepresented organizations. The organizations are:

(i) Waterways Association of Pittsburgh.

(ii) River Terminal Operator's Association.

(iii) Southwestern Pennsylvania Regional Planning Commission.

(iv) DINAMO (The Association for the Development of Inland Navigation in America's Ohio Valley).

(7) The Secretaries of Transportation and Commerce shall serve as nonvoting *ex officio* members.

(c) Terms.—The terms of members shall be six years. Members shall hold office until their successors have been appointed and may succeed themselves.

(d) Expenses.—Members shall receive no compensation but shall be entitled to reimbursement for all reasonable and necessary expenses, in accordance with the rules of the Executive Board.

(e) Initial appointments.—Initial appointments by the Governor, as outlined in subsection (b)(5) and (6), shall be as follows: three members for two years, three members for three years, three members for four years, three members for five years and three members for six years. Thereafter, the terms shall be for six years. Initial appointments by the President pro tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House and the Minority Leader of the House shall be for terms of two years.

Section 9. Governing body of Intermodal Corporation.

The Intermodal Corporation shall be governed by a board chosen in compliance with its bylaws as outlined in section 4 (b)(17), which shall be composed of experts in each of the air, rail, barge, truck and freight-forwarders industries and others.

Section 10. Implementation.

(a) Commission.—The Department of Commerce shall create the Port of Pittsburgh Commission within three months of the effective date of this act.

(b) Corporation.—The commission shall create the Pittsburgh Regional Intermodal Freight Corporation within three months of the commission's creation in cooperation with the Southwestern Pennsylvania Regional Planning Commission.

Section 11. Funding provisions.

The General Assembly may, from time to time, appropriate funds for the operation of the commission to be allocated by the Department of Commerce or Department of Transportation for the administration of the commission and the corporation and for managerial, legal, research, promotion, planning and any other expenses. All gifts, contributions, grants and donations accepted by the commission shall be deposited in a special account in the State Treasury known as the Port of Pittsburgh Development Fund and shall be used solely for the purpose indicated.

Section 12. Effective date.

This act shall take effect in 90 days.

APPROVED—The 19th day of December, A. D. 1990.

ROBERT P. CASEY