

## No. 2011-49

## AN ACT

HB 1173

Amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, further providing for metropolitan transportation authority powers relating to alternative means of raising revenue or reducing expenses.

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

Section 1. Section 1741(a)(24) of Title 74 of the Pennsylvania Consolidated Statutes is amended to read:

§ 1741. General powers.

(a) Powers enumerated.—An authority shall have and may exercise all powers necessary or convenient for the carrying out of the purposes of this chapter, including the following rights, powers and duties:

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(24) To explore alternative means of raising revenue or reducing expenses, including, but not limited to, real estate leases and rentals, equipment leases and rentals, contracting of services, the solicitation of competitive bids and the awarding of contracts to the highest responsive, responsible bidder for both interior and exterior advertising on all authority equipment on which the public is charged a fare for riding. **[However, on rail passenger units only bids for interior advertising shall be solicited.]** Nothing in this chapter or in any other law of this Commonwealth shall preclude the negotiation and execution of contracts with respect to real estate-related matters in accordance with and subject solely to the provisions of this paragraph. The general manager may recommend in writing that the board make a finding of special opportunity with respect to a real estate-related matter. The board shall consider the general manager's recommendation at a public meeting. The notice given in accordance with the **[act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act] provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings)**, with respect to such meeting shall state that the board will consider making a finding of special opportunity at such meeting and shall describe the nature of the proposed finding of special opportunity. Any finding of special opportunity shall be approved by the board in accordance with the provisions of section 1715 (relating to meetings, quorum, officers and records). The board shall adopt, by resolution, a process under which the authority shall enter into contracts needed to implement a finding of special opportunity. The process adopted by the board shall provide a method of prequalifying prospective contracting parties, where appropriate; for the reasonable notification of prospective contracting parties of the issuance of requests for proposals and the reasonable opportunity for qualified prospective contracting parties to submit proposals; for review of proposals from qualified prospective contracting parties; for the negotiation of contracts with one or more prospective contracting parties; for award of contracts on the

basis of evaluation of the characteristics of the proposals; and for giving such weight to the various characteristics of any proposal as the board shall determine is in the best interest of the authority. The characteristics by which proposals may be evaluated under a finding of special opportunity may include the likely complexity of the transaction; the amount of investment any selected contracting party will be required to make or offers to make in the real estate-related matter; the experience and prior success of the proposed contracting party in other similar dealings with the same type of real estate-related matters or with the authority; the quality, feasibility and potential for economic success of the proposal; any cost or potential return to the authority; the economic reliability and financial viability of the proposed contracting party; the compatibility of the proposal with the authority's basic function as a public transportation provider; the date by which the proposed contracting party agrees to complete the real estate-related matter; and other factors which the board shall specify. The authority shall make available a copy of the process adopted by the board to any person requesting a copy of the process. The general manager may make a written recommendation to the board concerning the award of a contract under a finding of special opportunity. The general manager's recommendation shall include the identity of the prospective contracting party or parties, the purpose of the contract, the substance of the finding of special opportunity, the substance and term of the proposed contract, the identities of any other prospective contracting parties who submitted proposals and the criteria upon which the general manager's recommendation was made and the reasons for selecting the prospective contracting party. Upon the written recommendation of the general manager, the board may award contracts under this paragraph after approving the awarding of the contract by a resolution adopted at a public meeting. The notice given in accordance with [the Sunshine Act] 65 Pa.C.S. Ch. 7 with respect to such meeting shall state that the board will consider awarding a contract under a finding of special opportunity at such meeting and shall describe the subject matter of such proposed contract. The authority shall by April 15 of each year submit a report to the department. The report shall detail the actions of the authority in exploring alternate means of raising revenue and reducing expenses. The department shall review the report and issue its findings and recommendations to the Appropriations Committee and the Transportation Committee of the Senate and the Appropriations Committee and the Transportation Committee of the House of Representatives no later than 30 days after receipt of such report for review and consideration of future funding by such committees. Where any alternate means have been rejected, the authority shall demonstrate that the feasibility and cost-effectiveness of that alternate means have been considered. As used in this paragraph, "finding of special opportunity" shall mean a written determination by the board that exclusion of a real estate-related matter from bidding procedures, as provided in this chapter or any other law, will be in the best interest of the authority and will be compatible with the authority's basic function as a public transportation provider, considering the nature of the real estate-

related matter with respect to which the authority proposes to contract. Any finding of special opportunity shall include the basis on which the finding of special opportunity is being made.

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

APPROVED—The 7th day of July, A.D. 2011

TOM CORBETT