

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 920 Session of 2021

INTRODUCED BY DELOZIER, ORTITAY, LEWIS, BOBACK, DAVANZO, HAMM, HEFFLEY, HELM, KEEFER, OBERLANDER, ROWE, RYAN, SMITH, WHEELAND AND ZIMMERMAN, MARCH 15, 2021

REFERRED TO COMMITTEE ON TRANSPORTATION, MARCH 15, 2021

AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania
 2 Consolidated Statutes, in public-private transportation
 3 partnerships, further providing for duties of board,
 4 providing for legislative oversight and further providing for
 5 selection of development entities, for public-private
 6 transportation partnership agreement and for Public-Private
 7 Transportation Account.

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

10 Section 1. Section 9104 of Title 74 of the Pennsylvania
 11 Consolidated Statutes is amended to read:

12 § 9104. Duties of board.

13 (a) Duties.--The board shall do all of the following:

14 (1) Meet as often as necessary but at least annually.

15 (2) Adopt guidelines establishing the procedure by which
 16 a public entity may submit or, for a disapproved request
 17 under section 9104.1 (relating to legislative oversight),
 18 resubmit a request for a transportation project or a private
 19 entity may submit or, for a disapproved request under section
 20 9104.1, resubmit an unsolicited plan for a transportation

1 project to the board.

2 (3) Consult with persons affected by proposed
3 transportation projects.

4 (4) [Evaluate] Subject to paragraph (6) and section
5 9104.1, evaluate and, where the board finds that the requests
6 or plans for transportation projects are in the best
7 interests of the Commonwealth and a public entity, approve
8 the requests or plans for transportation projects. The board
9 shall approve a proposed transportation project by adopting a
10 resolution[.] and submit a copy of the resolution to the
11 chair and minority chair of the Transportation Committee of
12 the Senate and chair and minority chair of the Transportation
13 Committee of the House of Representatives within 24 hours of
14 the adoption of the resolution. The board shall include with
15 the copy of the resolution, a statement as to whether the
16 transportation facility that is the subject of the proposed
17 transportation project is owned by the Commonwealth.

18 (5) Submit an annual report to the General Assembly
19 detailing all transportation projects evaluated and
20 resolutions adopted.

21 (6) Disapprove a proposed transportation project if the
22 transportation facility that is the subject of the proposed
23 transportation project is an existing transportation facility
24 owned by the Commonwealth and the public entity has not
25 provided details regarding the specific transportation
26 facility included in the proposed transportation project.

27 (b) Actions.--Actions by the board are a determination of
28 public policy and public interest and shall not be considered
29 adjudications under 2 Pa.C.S. Chs. 5 Subch. A (relating to
30 practice and procedure of Commonwealth agencies) and 7 Subch. A

1 (relating to judicial review of Commonwealth agency action) and
2 shall not be appealable to the department or a court of law.

3 [(c) General Assembly.--The following shall apply:

4 (1) The General Assembly may, within 20 calendar days or
5 nine legislative days, whichever is longer, of the adoption
6 of the resolution under subsection (a)(4), pass a concurrent
7 resolution rescinding the approval of a transportation
8 project if the transportation facility which is the subject
9 of the transportation project is owned by the Commonwealth.

10 (2) If the General Assembly adopts the concurrent
11 resolution within the time period under paragraph (1) by
12 majority vote in both the Senate and the House of
13 Representatives, the transportation project shall be deemed
14 disapproved.

15 (3) If the General Assembly fails to adopt the
16 concurrent resolution by majority vote in both the Senate and
17 the House of Representatives within the time period under
18 paragraph (1), the transportation project shall be deemed
19 approved.]

20 Section 2. Title 74 is amended by adding a section to read:
21 § 9104.1. Legislative oversight.

22 (a) Applicability.--

23 (1) A proposed transportation project shall be subject
24 to the provisions of subsections (b) and (c) if the
25 transportation facility that is the subject of the proposed
26 transportation project is owned by the Commonwealth.

27 (2) A proposed transportation project disapproved under
28 the provisions of subsection (b) or (c) and resubmitted to
29 the board shall also be subject to the provisions of
30 subsections (b) and (c).

1 (3) Subsections (b) and (c) shall not apply to a
2 proposed transportation project if the transportation
3 facility that is the subject of the proposed transportation
4 project is not owned by the Commonwealth. The proposed
5 transportation project shall be deemed approved upon the
6 adoption of a resolution by the board under section 9104(a)
7 (4) (relating to duties of board).

8 (b) Legislative disapproval.--Except as provided for under
9 subsection (c), the General Assembly may pass a concurrent
10 resolution disapproving a proposed transportation project and
11 prohibiting the expenditure of public money on the proposed
12 transportation project, subject to the following:

13 (1) The concurrent resolution may be passed by the
14 General Assembly within 20 calendar days or nine voting
15 legislative days, whichever is longer, of the date on which
16 the board adopted a resolution approving the proposed
17 transportation project under section 9104(a) (4), unless there
18 are less than 20 calendar days or nine voting legislative
19 days, whichever is longer, remaining from the date the board
20 adopted the resolution because of the adjournment sine die or
21 expiration of the legislative session in an even-numbered
22 year.

23 (2) If the General Assembly is prevented from passing a
24 concurrent resolution within the time period under paragraph
25 (1) because of the adjournment sine die or expiration of the
26 legislative session in an even-numbered year, the General
27 Assembly may pass a concurrent resolution within 20 calendar
28 days or nine voting legislative days, whichever is longer, of
29 the fourth Monday in January of the next calendar year.

30 (3) If the General Assembly fails to adopt the

1 concurrent resolution by majority vote in both the Senate and
2 the House of Representatives within the time periods under
3 paragraphs (1) and (2), the proposed transportation project
4 shall be deemed approved.

5 (c) Legislative approval required for user fees.--

6 (1) For a proposed transportation project in which user
7 fees, tolls, fares or other similar charges may or will be
8 imposed and determined in the transportation project's
9 public-private transportation partnership agreement, the
10 proposed transportation project shall not be deemed approved
11 until the proposed transportation project is subsequently
12 approved by the General Assembly through the adoption of a
13 concurrent resolution by a majority vote of the Senate and
14 House of Representatives.

15 (2) If the General Assembly fails to adopt a concurrent
16 resolution under this subsection within one year of the date
17 on which the board adopted a resolution approving the
18 proposed transportation project under section 9104(a) (4), the
19 proposed transportation project shall be deemed disapproved
20 and no public money may be expended on the proposed
21 transportation project.

22 (d) Construction.--Nothing in this section shall be
23 construed to prevent a proposed transportation project
24 disapproved under subsection (b) or (c) from being resubmitted
25 to the board and approved by the board through the adoption of a
26 resolution by the board under section 9104(a) (4).

27 Section 3. Sections 9109(a), 9110(g) and 9122(d) of Title 74
28 are amended to read:

29 § 9109. Selection of development entities.

30 (a) Conditions for use.--If a transportation project is

1 approved under [section] sections 9104 (relating to duties of
2 board) and 9104.1 (relating to legislative oversight), the
3 public entity may enter into a contract for the transportation
4 project by competitive sealed proposals.

5 * * *

6 § 9110. Public-private transportation partnership agreement.

7 * * *

8 (g) Amounts received under a public-private transportation
9 partnership agreement.--[The]

10 (1) Except as provided under paragraph (2), the net
11 proceeds received by the proprietary public entity under a
12 public-private transportation partnership agreement shall be
13 available exclusively to provide funding for transportation
14 needs in this Commonwealth. The use of the proceeds or other
15 revenues from the public-private transportation project shall
16 comply with Federal or State law restricting or limiting the
17 use of revenue from the public-private transportation project
18 based on its public funding.

19 (2) If the proprietary public entity is the department,
20 the net proceeds received by the proprietary public entity
21 under a public-private transportation partnership agreement
22 shall be deposited into the Motor License Fund and shall be
23 used exclusively to provide funding for transportation needs
24 in this Commonwealth. The use of the net proceeds or other
25 revenue from the public-private transportation project shall
26 comply with Federal or State law restricting or limiting the
27 use of revenue from the public-private transportation project
28 based on its public funding.

29 § 9122. Public-Private Transportation Account.

30 * * *

1 (d) Amounts received.--[The]

2 (1) Except as provided under paragraph (2), the net
3 proceeds received under a public-private transportation
4 partnership agreement shall be available exclusively to
5 provide funding for transportation needs in this
6 Commonwealth. The use of the proceeds or other revenues from
7 the public-private transportation project shall be in accord
8 with Federal or State law restricting or limiting the use of
9 revenue from the public-private transportation project based
10 on its public funding.

11 (2) Notwithstanding subsections (b) and (c), if the
12 proprietary public entity is the department, the net proceeds
13 received by the proprietary public entity under a public-
14 private transportation partnership agreement shall be
15 deposited into the Motor License Fund and shall be used
16 exclusively to provide funding for transportation needs in
17 this Commonwealth. The use of the net proceeds or other
18 revenue from the public-private transportation project shall
19 comply with Federal or State law restricting or limiting the
20 use of revenue from the public-private transportation project
21 based on its public funding.

22 Section 4. This act shall apply to:

23 (1) A proposed transportation project submitted to the
24 Public-Private Transportation Partnership Board on or after
25 the effective date of this section.

26 (2) A proposed transportation project submitted to the
27 Public-Private Transportation Partnership Board prior to the
28 effective date of this section, if:

29 (i) The proposed transportation project was approved
30 by the board on or after November 12, 2020, and prior to

1 the effective date of this section.

2 (ii) The transportation facility that is the subject
3 of the proposed transportation project is owned by the
4 Commonwealth.

5 (iii) User fees, tolls, fares or other similar
6 charges may or will be imposed and determined in the
7 transportation project's public-private transportation
8 partnership agreement.

9 (iv) The public entity is the Department of
10 Transportation of the Commonwealth.

11 (v) The public entity has not entered into a public-
12 private transportation partnership agreement with a
13 responsible offeror for the proposed transportation
14 project by the effective date of this section.

15 Section 5. If a public entity intends to proceed with a
16 proposed transportation project that meets the criteria of
17 section 4(2) of this act, the public entity must resubmit the
18 proposed transportation project to the Public-Private
19 Transportation Partnership Board under 74 Pa.C.S. § 9104(a)(4).

20 Section 6. This act shall take effect immediately.