

No. 120

AN ACT

SB 408

Amending the act of April 9, 1929 (P.L.177), entitled "An act providing for and reorganizing the conduct of the executive and administrative work of the Commonwealth by the Executive Department thereof and the administrative departments, boards, commissions, and officers thereof, including the boards of trustees of State Normal Schools, or Teachers Colleges; abolishing, creating, reorganizing or authorizing the reorganization of certain administrative departments, boards, and commissions; defining the powers and duties of the Governor and other executive and administrative officers, and of the several administrative departments, boards, commissions, and officers; fixing the salaries of the Governor, Lieutenant Governor, and certain other executive and administrative officers; providing for the appointment of certain administrative officers, and of all deputies and other assistants and employes in certain departments, boards, and commissions; and prescribing the manner in which the number and compensation of the deputies and all other assistants and employes of certain departments, boards and commissions shall be determined," abolishing the Department of Highways and the Pennsylvania Aeronautics Commission, creating the Department of Transportation and defining its powers, functions and duties, making changes in various boards and commissions related to the Department of Transportation, providing for the inclusion of available Federal funds in estimates of expenditures, requiring annual appropriations from the Motor License Fund within constitutional limitations, and repealing inconsistent acts.

It is hereby declared to be the policy of the Commonwealth of Pennsylvania that the general welfare, the economic growth, job mobility, convenience and the enjoyment of recreational, health and educational facilities, stability and well-being of the citizens of the Commonwealth of Pennsylvania can be better served by the creation of a State Department of Transportation to develop programs to assure adequate, safe and efficient transportation facilities and services at reasonable cost to the citizens of the Commonwealth of Pennsylvania and that the planning and development of such facilities and services shall be coordinated by the creation of such department with overall responsibility for balanced transportation policy, research, planning and development. The establishment of said department is necessary in the public interest to assure the coordinated effective administration of the transportation programs of the State Government, to facilitate the development and improvement of coordinated transportation service by local government and private enterprise to the maximum extent feasible; to encourage cooperation of Federal, State, and local governments, carriers, labor and other interested parties toward the achievement of providing needed facilities for movement of people and goods; to stimulate technological advances in transportation; to provide general leadership in the identification and solution of transportation problems; and to develop inter-modal transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, users, carriers, industry and labor.

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

Section 1. Section 201, act of April 9, 1929 (P.L.177), known as "The Administrative Code of 1929," amended December 18, 1968 (Act No. 390), is amended to read:

Section 201. Executive Officers, Administrative Departments and Independent Administrative Boards and Commissions.—The executive

and administrative work of this Commonwealth shall be performed by the Executive Department, consisting of the Governor, Lieutenant Governor, Secretary of the Commonwealth, Attorney General, Auditor General, State Treasurer, and Superintendent of Public Instruction; by the Executive Board, and the Pennsylvania State Police; by the following administrative departments: Department of State, Department of Justice, Department of the Auditor General, Treasury Department, Department of Public Instruction, Department of Military Affairs, Insurance Department, Department of Banking, Department of Agriculture, Department of Forests and Waters, Department of Mines and Mineral Industries, Department of **[Highways] Transportation**, Department of Health, Department of Labor and Industry, Department of Public Welfare, Department of Property and Supplies, Department of Revenue, Department of Commerce and Department of Community Affairs; and by the following independent administrative boards and commissions: Pennsylvania Game Commission, Pennsylvania Fish Commission, State Civil Service Commission, Pennsylvania Public Utility Commission, and the Pennsylvania Historical and Museum Commission.

All of the provisions of this act, which apply generally to administrative departments, or generally except to the Department of the Auditor General and the Treasury Department, shall apply to the Executive Board and to the Pennsylvania State Police.

Section 2. As much as applies to the Department of Military Affairs in section 202 of the act, amended August 26, 1953 (P.L.1468), is amended to read:

Section 202. Departmental Administrative Boards, Commissions, and Offices.—The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the case may be, in the respective administrative departments mentioned in the preceding section, as follows:

* * *

In the Department of Military Affairs,
 Armory Board of the State of Pennsylvania;
 Board of Trustees of Pennsylvania Soldiers' and Sailors'
 Home;
[Pennsylvania Aeronautics Commission;]

* * *

All of the foregoing departmental administrative boards and commissions shall be organized or reorganized as provided in this act.

Section 3. Section 202 of the act is amended by adding before the last paragraph, a new clause to read:

Section 202. Departmental Administrative Boards, Commissions, and Offices.—The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the

case may be, in the respective administrative departments mentioned in the preceding section, as follows:

* * *

*In the Department of Transportation,
Hazardous Substances Transportation Board.*

All of the foregoing departmental administrative boards and commissions shall be organized or reorganized as provided in this act.

Section 4. Section 206 of the act, amended February 1, 1966 (P.L.1849) and December 18, 1968 (Act No. 390), is amended to read:

Section 206. Department Heads.—Each administrative department shall have as its head an officer who shall, either personally, by deputy, or by the duly authorized agent or employe of the department, and subject at all times to the provisions of this act, exercise the powers and perform the duties by law vested in and imposed upon the department.

The following officers shall be the heads of the administrative departments following their respective titles:

- Secretary of the Commonwealth, of the Department of State;
- Attorney General, of the Department of Justice;
- Auditor General, of the Department of the Auditor General;
- State Treasurer, of the Treasury Department;
- Superintendent of Public Instruction, of the Department of Public Instruction;
- Adjutant General, of the Department of Military Affairs;
- Insurance Commissioner, of the Insurance Department;
- Secretary of Banking, of the Department of Banking;
- Secretary of Agriculture, of the Department of Agriculture;
- Secretary of Forests and Waters, of the Department of Forests and Waters;
- Secretary of Mines and Mineral Industries, of the Department of Mines and Mineral Industries;
- Secretary of **[Highways]** *Transportation*, of the Department of **[Highways]** *Transportation*;
- Secretary of Health, of the Department of Health;
- Secretary of Labor and Industry, of the Department of Labor and Industry;
- Secretary of Public Welfare, of the Department of Public Welfare;
- Secretary of Property and Supplies, of the Department of Property and Supplies;
- Secretary of Revenue, of the Department of Revenue;
- Secretary of Commerce, of the Department of Commerce;
- Secretary of Community Affairs, of the Department of Community Affairs.

Section 5. The first paragraph of clause (a) of section 207 of the act, amended February 1, 1966 (P.L.1849), is amended to read:

Section 207. Appointment.—The Governor shall nominate and, by

and with the advice and consent of two-thirds of all the members of the Senate, appoint:

(a) The Secretary of the Commonwealth, the Attorney General, the Superintendent of Public Instruction, the Adjutant General, the Insurance Commissioner, the Secretary of Banking, the Secretary of Agriculture, the Secretary of Forests and Waters, the Secretary of Mines, the Secretary of **[Highways] Transportation**, the Secretary of Health, the Commissioner of the Pennsylvania State Police, the Secretary of Labor and Industry, the Secretary of Public Welfare, the Secretary of Property and Supplies, the Secretary of Revenue, the Secretary of Commerce, the Secretary of Community Affairs, and the members of all independent administrative boards and commissions.

* * *

Section 6. Section 407 of the act is repealed.

Section 7. Section 432 of the act, amended December 18, 1968 (Act No. 390), is amended to read:

Section 432. Geographic Board.—The Geographic Board shall consist of the Secretary of Forests and Waters, who shall be the chairman thereof, the Secretary of **[Highways] Transportation**, the chairman of the Pennsylvania Historical and Museum Commission, and such officer of an administrative department as shall be designated by the Governor.

Three members of the board shall constitute a quorum.

Section 8. Section 468 of the act, added August 14, 1963 (P.L.918), subsection (b) amended December 15, 1965 (P.L.1088) and subsection (a) amended June 16, 1969 (P.L.80), is amended to read:

Section 468. State **[Highway] Transportation** Commission.— (a) There is hereby created a State **[Highway] Transportation** Commission which shall consist of **[nine] thirteen** members, one of whom shall be the Secretary of **[Highways] Transportation**, ex officio, who shall be the chairman of the commission. The chairman of the Committee on Highways of the Senate and the chairman of the Committee on Transportation of the House of Representatives, respectively, shall be ex officio members of the commission.

(b) The Governor shall nominate and by and with the advice and consent of two-thirds of all the members of the Senate, appoint **[the six] eight of the** remaining members of the commission, not more than **[three] four** of whom shall be members of the same political party, *for terms of six years: Provided, That one of the two members who is to be appointed by virtue of his membership on the board of directors of a transportation authority shall be appointed for an initial term of four years.* Not more nor less than one appointed member of the commission shall be a resident of the counties of Philadelphia and Allegheny, respectively. **[Immediately after the adoption of this amendment, the Governor shall appoint two members of the commission, who shall not be members of the same political party, for terms of two years, two members, who shall not be of the same political party, for terms of four years, and two**

members, who shall not be of the same political party, for terms of six years. The term of each member so appointed shall be designated by the Governor at the time of appointment but their successors shall each be appointed for terms of six years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the commission may be appointed to succeed himself. All members shall serve for their appointed terms and until their successors shall have been appointed and qualified. The Governor shall fill any vacancy not later than ninety days after such vacancy occurs.] *Effective with the first two appointments after the adoption of this act at least two of the appointees of the Governor shall be members of the board of directors of a transportation authority at the time of their appointment: Provided, That said authority appointees shall not be considered residents of either Philadelphia or Allegheny County for the purpose of the preceding sentence. The present members of the commission shall be entitled to complete their present terms and may be reappointed at the completion thereof.*

(c) [The appointed members of the commission shall be reputable citizens of the Commonwealth, of mature judgment and broad business experience and shall not hold any other position as an employe of the Commonwealth.

(d) No appointed member of the commission, during his term of office shall directly or indirectly own, have any financial interest in, be associated with, or receive any fee, commission, compensation or anything of value from any person, firm, partnership, business association or corporation which supplies materials or services of any nature except services of an informational or advisory nature rendered as a public service and without profit to the Department of Highways.

(e) Each member of the commission shall be deemed to have been appointed to represent the interests of the Commonwealth at large and shall not be deemed to be the representative of any region or district whatsoever.

(f) The members of the commission shall be entitled to receive fifty dollars (\$50) per diem for each day actually spent in the performance of his duties and shall be entitled to reimbursement for travel.] *The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint one member of the minority party in their respective houses to serve until February 1, 1971. Subsequent appointees shall serve for two year periods ending on January 31, of the odd-numbered years or until a successor is appointed whichever shall last occur. In the event a member so appointed is no longer a member of the house from which he was appointed, there shall be a vacancy in his position on the commission.*

(d) *The members of the commission shall be reputable citizens of the Commonwealth, of mature judgment and broad business experience and shall not hold any other position as an employe of the Commonwealth. Any person appointed to fill a vacancy shall serve only*

for the unexpired term. Any member of the commission may be appointed to succeed himself. All appointed members shall serve for their appointed terms and until their successors have been appointed and qualify. All vacancies shall be filled not later than sixty days after such vacancy occurs.

(e) *No member of the commission, during his term of office shall directly or indirectly own, have any significant financial interest in, be associated with, or receive any fee, commission, compensation or anything of value from any person, firm, partnership, business association or corporation which supplies materials or services of any nature except services of an informational or advisory nature rendered as a public service and without profit to the Department of Transportation.*

(f) *Each member of the commission shall be deemed to have been appointed to represent the interests of the Commonwealth at large and shall not be deemed to be the representative of any region or district whatsoever.*

(g) *The members of the commission, other than legislative members, shall be entitled to receive seventy-five dollars (\$75) per diem for each day actually spent in the performance of his duties and all members shall be entitled to reimbursement for reasonable expenses as determined by rule or regulation of the commission.*

Section 9. Section 526 of the act, added May 31, 1947 (P.L.348), is amended to read:

Section 526. Aircraft for Official Use.—All aircraft required for the proper conduct of the business of the several administrative departments, boards, and commissions, and the officers and authorized agents of the General Assembly, or of either branch thereof, shall be purchased and maintained by the [Pennsylvania Aeronautics Commission] *Department of Transportation*. The use of such aircraft shall be charged by the [commission] *department* to the using agency. The amount of such charge shall be paid into the Motor License Fund and be credited to the amounts appropriated therefrom for the use of the [Pennsylvania Aeronautics Commission] *Department of Transportation*. All amounts so credited are hereby appropriated to the [Pennsylvania Aeronautics Commission] *Department of Transportation* for the same purposes as other appropriations out of the Motor License Fund for the use of the [commission] *department*.

Section 10. Section 604 of the act, amended June 3, 1943 (P.L.833), and the first paragraph amended December 18, 1968 (Act No. 390), is amended to read:

Section 604. Estimates of Current Expenditures by Departments, Boards, and Commissions.—Each administrative department, board, and commission, except the departments of which the Auditor General and the State Treasurer are respectively the heads, shall, from time to time, as

requested by the Governor, prepare and submit to the Governor, for approval or disapproval, an estimate of the amount of money required for each activity or function to be carried on by such department, board or commission, during the ensuing month, quarter, or such other period as the Governor shall prescribe. *All available Federal funds shall be characterized as and shall be included in the estimated expenditures which must be submitted and approved by the Governor, before any expenditures therefrom may be made.* If such estimate does not meet with the approval of the Governor, it shall be revised in accordance with the Governor's desires and resubmitted for approval.

After the approval of any such estimate, it shall be unlawful for the department, board, or commission to expend any appropriation *or Federal funds* or part thereof, except in accordance with such estimate, unless the same be revised with the approval of the Governor.

If any department, board, or commission, to which this section applies, shall fail or refuse to submit to the Governor estimates of expenditures, in accordance with the Governor's request, the Governor may notify the Auditor General, in writing, of such failure or refusal, and, after receipt of such notice, the Auditor General shall not draw any warrant in favor of such department, board, or commission, until the Governor shall have notified the Auditor General, in writing, that the delinquent department, board, or commission has furnished him with, and he has approved, the estimate as required by this section.

Section 11. The article heading of Article XX and section 2001 of the act are amended to read:

ARTICLE XX
POWERS AND DUTIES OF THE DEPARTMENT OF
[HIGHWAYS] *TRANSPORTATION*

Section 2001. Powers and Duties in General.—The Department of [Highways] *Transportation* shall, subject to any inconsistent provisions in this act contained, [continue to] exercise the powers and perform the duties by law vested in and imposed upon the said department, the Secretary of [Highways] *Transportation*, the former State Highway Department, [and] former State Highway Commissioner, *the former Department of Highways, the former Secretary of Highways, those powers and duties relating to certificates of title, licensing of operators, registration of motor vehicles, tractors, trailers and semi-trailers, licensing of motor vehicles and tractors and exemptions and reciprocal agreements vested in and imposed upon the Department of Revenue and the Secretary of Revenue by the act of April 29, 1959 (P.L.58), known as "The Vehicle Code," and its amendments, and by section 13 of the act of June 19, 1964 (P.L.7), known as the "Motor Carriers Road Tax Act," and shall perform the functions and duties heretofore imposed upon and*

performed by the Bureau of Motor Vehicles in the Department of Revenue, the Bureau of Traffic Safety in the Department of Revenue, the Department of Commerce in regard to the High-Speed Rail Demonstration Programs, the Mass Transportation Division in the Bureau of Community Development of the Department of Community Affairs, the Department of Community Affairs and the Secretary of Community Affairs by the act of January 22, 1968 (Act No. 7), known as "The Pennsylvania Transportation Assistance Authority Act of 1967" and the act of January 22, 1968 (Act No. 8), known as the "Pennsylvania Urban Mass Transportation Assistance Law of 1967," and the former Pennsylvania Aeronautics Commission in the Department of Military Affairs.

Section 12. The act is amended by adding after section 2001, four new sections to read:

Section 2001.1. Certain Contracts by the Secretary.—The secretary shall enter into all necessary contracts and agreements with the proper agencies of any government, Federal, State and/or political subdivision and/or any private agency and shall do all other things necessary and proper in order to obtain any benefits afforded under the provisions of any act of the United States Congress, the General Assembly of the Commonwealth of Pennsylvania and/or any governing body of any political subdivision of the Commonwealth of Pennsylvania, and also the governing body of any private agency for any purpose connected in any way with the Department of Transportation of the Commonwealth of Pennsylvania.

Section 2001.2. Prohibition of Diversion of Funds.—Dispersment of funds from the Motor License Fund shall be limited as follows:

It is the sense of the Legislature that, although the Department of Transportation includes within its purview not only the former Department of Highways but also other boards, bureaus, commissions and instrumentalities as well, Article VIII, section 11 of the Constitution of Pennsylvania 1968 must be unequivocally adhered to.

Thus, all proceeds therein enumerated are to be used solely and exclusively for the purposes and to the extent provided therein.

Section 2001.3. Deputy Secretaries.—The Secretary of Transportation shall appoint, with the approval of the Governor, five deputy secretaries who shall have the title of Deputy Secretary for Administration, Deputy Secretary for Highway Administration, Deputy Secretary for Safety Administration, Deputy Secretary for Planning and Deputy Secretary for Local and Area Transportation.

The Deputy Secretary for Administration, with the approval of the Secretary of Transportation, shall have the powers and perform the duties and functions under this act regarding the fiscal affairs of the department, the management information systems, office services, personnel, and operations analysis and improvement.

The Deputy Secretary for Highway Administration, with the approval of the Secretary of Transportation shall have the powers and perform the functions and duties provided in sections 2002 through 2009 of this act regarding the design, construction, maintenance and land acquisition of State designated highways and shall assure that the design, maintenance, operation and replacement of highways will be such as to protect health and minimize danger to life or property.

The Deputy Secretary for Safety Administration, with the approval of the Secretary of Transportation shall conduct a continuing study of means to prevent accidents and injuries on the highways, shall have the powers and perform the duties and functions heretofore imposed upon and performed by the Bureau of Motor Vehicles in the Department of Revenue and the Bureau of Traffic Safety in the Department of Revenue and shall exercise such powers and duties with regard to safety in other modes of transportation as may be prescribed by law.

The Deputy Secretary for Planning, with the approval of the Secretary of Transportation shall have the powers and perform the functions and duties provided in this act with regard to environment, conservation, health, recreation and social considerations, transportation planning statistics, economic research, program and budget and advance planning.

The Deputy Secretary for Local and Area Transportation, with the approval of the Secretary of Transportation shall have the powers and perform the functions and duties provided in sections 2002 and 2003 regarding services to municipalities, local and public transportation, planning, development and funding of local and public transportation, technological development of air, rail, water or other modes of transportation (except recreational boating and ferry licensing), environmental design, improvement of transportation services and airports and aircraft and shall perform the functions and duties heretofore imposed upon and performed by the Department of Community Affairs and the Department of Commerce under the act of January 22, 1968 (Act No. 7), known as "The Pennsylvania Transportation Assistance Authority Act of 1967," by the Mass Transportation Division in the Bureau of Community Development of the Department of Community Affairs, by the Secretary of Community Affairs under the act of January 22, 1968 (Act No. 8), known as the "Pennsylvania Urban Mass Transportation Assistance Law of 1967," by the former Pennsylvania Aeronautics Commission in the Department of Military Affairs, by the Department of Commerce in regard to High-Speed Rail Demonstration Programs and by the former Department of Highways in regard to the distribution of liquid fuels taxes to the municipalities and townships.

Section 2001.4. State Transportation Advisory Committee.—There is hereby created a State Transportation Advisory Committee which

shall consist of the Secretary of Transportation, the Executive Director of the State Planning Board, the Chairman of the Public Utility Commission, the Secretary of Commerce, the Secretary of Education, the Secretary of Forests and Waters, the Secretary of Agriculture, the Secretary of Community Affairs, two members of the House of Representatives to be appointed by the Speaker and who shall not be members of the same political party, two members of the Senate to be appointed by the President Pro Tempore and who shall not be members of the same political party and eighteen additional public members.

The Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives each shall appoint six public members to the State Transportation Advisory Committee. The public members must have recent and extensive experience and knowledge in the fields of transportation of people and goods from industry, labor, academic, consulting, research sources and the appointing authorities shall give due consideration to insure a balanced representation by facilities and modes for air, land and water transportation as they exist in the Commonwealth, both public and private. Two of the initially appointed members of the committee designated by each appointive power shall serve one year, two for terms of two years and two for terms of three years from the date of their appointment. A term of each initially appointed member shall be designated by the appointive person, but their successors shall each be appointed for terms of three years. Any person appointed to fill a vacancy shall serve for only the unexpired term. Any member of the committee may be appointed to succeed himself.

The Governor shall annually designate the chairman from among the public members.

The State Transportation Advisory Committee shall meet the first Monday in February of each year and hold at least three additional meetings during the calendar year. It shall have the power and its duty shall be to consult with and advise the State Transportation Commission and the Secretary of Transportation in behalf of all the transportation modes of the Commonwealth and to aid and assist the State Transportation Commission and the Secretary of Transportation in the determination of goals and the allocation of available resources among and between the alternative modes in the planning, development and maintenance of programs, and technologies for transportation systems and to advise the several modes the planning, programs and goals of the department, and the State Transportation Commission.

Section 13. Section 2002 of the act, amended in part August 14, 1963 (P.L.918), is amended to read:

Section 2002. [State and State-aid Highways] *Powers and Duties of the Department.—(a) The Department of [Highways shall] Transportation in accord with appropriations made by the General*

Assembly, and grants of funds from Federal, State, regional, local or private agencies, shall have the power, and its duty shall be:

(1) To develop and maintain a continuing, comprehensive and coordinated transportation planning process;

(2) To develop programs designed to foster efficient and economical public transportation services in the State;

(3) To prepare plans for the preservation and improvement of the commuter railroad system;

(4) To develop plans for more efficient public transportation service by motor bus operation;

(5) To prepare and develop plans and programs for all modes of urban transportation, including in addition to commuter rail and motor bus, rapid rail, trolley coach, surface rail, corridor rail, and other innovative modes of urban transportation;

(6) To coordinate the transportation activities of the department with those of other public agencies and authorities;

(7) To cooperate with interstate commissions and authorities, State departments, councils, boards, commissions, authorities and other State agencies, with political subdivisions of the Commonwealth, with appropriate Federal agencies, public agencies in other states, and with interested private individuals and organizations in the coordination of plans and policies for the development of ground, air and water commerce and facilities;

[(a)] (8) To mark, build, rebuild, relocate, fix the width of, construct, repair, and maintain [such] State designated highways [as may now or hereafter be designated by law as State highways] and transportation facilities and rights of way;

(9) To undertake the powers and duties formerly performed by the Department of Community Affairs under the act of January 22, 1968 (Act No. 8), known as the "Pennsylvania Urban Mass Transportation Assistance Law of 1967," and the powers and duties formerly performed by the Department of Community Affairs and the Department of Commerce under the act of January 22, 1968 (Act No. 7), known as "The Pennsylvania Transportation Assistance Authority Act of 1967."

[(b)] (10) To have exclusive authority and jurisdiction over all State designated highways;

[(c)] (11) To superintend, supervise and control the work of [building, rebuilding,] constructing, reconstructing, maintaining and repairing [State-aid] State designated highways, and other transportation facilities and rights of way;

[(d)] (12) To enter into contracts for designing, constructing, repairing, or maintaining, State designated highways, and other transportation facilities and rights of way, airports or any parts thereof, as may now or hereafter be provided by law;

(e) (13) To prepare and submit [by May 1, 1964, and] every *even-numbered* year [thereafter] prior to the first day of [May] *September*, to the State [Highway] *Transportation* Commission for its consideration, a [construction] program which it recommends to be undertaken by the Department of [Highways] *Transportation* during the [six calendar] *six fiscal* years next ensuing. Each [year] *two years* thereafter, the Department of [Highways] *Transportation*, taking into consideration the recommendations of the State [Highway] *Transportation* Commission, *and other relevant information*, shall review, revise, adjust and extend its construction program for [one year] *two years*. *The preparation and consideration of the program shall be coordinated with the preparation and consideration of the Commonwealth's Capital Program by the State Planning Board.*

Copies of construction programs shall be supplied to the members of the General Assembly and shall be open to the public for inspection and shall be made available to interested persons. The priority of improvement shall be based upon relative need and sufficiency ratings maintained by the department.

(14) *To appear or intervene as a party, when the secretary deems it appropriate, before the Public Utility Commission when transportation problems are being considered by the commission.*

(15) *To consult with appropriate officials as designated by the chief administrative officer of the Department of Forests and Waters, the Department of Mines and Mineral Industries, the Department of Community Affairs, the Department of Health, State Planning Board and the Fish Commission regarding the environmental hazards and the conservation, sanitary, recreation and social considerations that may arise by reason of the location, design, construction or reconstruction of any transportation or air facility.*

No highway, transit line, highway interchange, airport, or other transportation corridor or facility, shall be built or expanded in such a way as to use any land from any recreation area, wildlife and/or waterfowl refuge, historic site, State forest land, State game land, wilderness areas or public park unless: (i) there is no feasible and prudent alternative to the use of such land, and (ii) such corridor or facility is planned and constructed so as to minimize harm to such recreation area, wildlife and/or waterfowl refuge, historic site, State forest land, State game land, wilderness area, or public park.

(16) *To represent the transportation interests of the Commonwealth including any of its agencies or instrumentalities at the direction of the Governor, or when the secretary deems it appropriate before any Federal agency or commission which determines national or regional transportation rates, routes or policy.*

(b) *Upon the submission of the preliminary plan or design to the Department of Transportation for any transportation route or program*

requiring the acquisition of new or additional right-of-way, the Department of Transportation shall have the power and its duty shall be to follow the hearing procedures now or hereafter required by the Federal Government for Federal-aid transportation programs pursuant to Titles 23 and 49 of the United States Code as amended and the regulations and procedures thereunder even though the transportation route or program does not contemplate the use of or actually employ Federal funds. At the hearings required by this subsection the Department of Transportation shall consider the following effects of the transportation route or program:

- (1) Residential and neighborhood character and location;*
- (2) Conservation including air, erosion, sedimentation, wildlife and general ecology of the area;*
- (3) Noise, and air and water pollution;*
- (4) Multiple use of space;*
- (5) Replacement housing;*
- (6) Displacement of families and businesses;*
- (7) Recreation and parks;*
- (8) Aesthetics;*
- (9) Public health and safety;*
- (10) Fast, safe and efficient transportation;*
- (11) Civil defense;*
- (12) Economic activity;*
- (13) Employment;*
- (14) Fire protection;*
- (15) Public utilities;*
- (16) Religious institutions;*
- (17) Conduct and financing of government including the effect on the local tax base and social service costs;*
- (18) Natural and historic landmarks;*
- (19) Property values;*
- (20) Education, including the disruption of school district operations;*
- (21) Engineering, right-of-way and construction costs of the project and related facilities;*
- (22) Maintenance and operating costs of the project and related facilities;*
- (23) Operation and use of existing transportation routes and programs during construction and after completion.*

At the hearings required by this section, the public officials named in clause (15) of subsection (a) of this section shall make a report indicating the environmental effects of the proposed transportation route or program. The Department of Transportation shall not construct or reconstruct any portion of the transportation route or

program unless the Secretary of Transportation makes a written finding published in the Pennsylvania Bulletin that:

(1) No adverse environmental effect is likely to result from such transportation route or program; or

(2) There exists no feasible and prudent alternative to such effect and all reasonable steps have been taken to minimize such effect. For the purpose of this subsection environmental effect shall refer to the effects enumerated in this subsection.

Section 14. The first paragraph and clauses (a), (b) and (f) of section 2003 of the act, clause (f) amended July 3, 1963 (P.L.191), are amended to read:

Section 2003. Machinery, Equipment, Lands and Buildings.—The Department of **[Highways] Transportation in accord with appropriations made by the General Assembly, and grants of funds from Federal, State, regional, local or private agencies,** shall have the power, and its duty shall be:

(a) Subject to the limitations hereinbefore in this act contained, to purchase and maintain materials, supplies, and equipment, necessary for the construction and repair of highways *and State-owned airports*, and to employ all labor necessary therefor;

(b) If necessary in order to expedite and more efficiently to carry out the work of the department, to purchase and maintain, at the expense of the department, **[wagons and other] vehicles, and [horses, mules and harness and provide for their keep and maintenance] aircraft;**

* * *

(f) To rent State-owned **[road building] equipment related to transportation used by the Department of Transportation** to political subdivisions *or instrumentalities* of the Commonwealth or to any agency, bureau or department of the Federal Government, upon such terms as shall be established by the rules and regulations of the Department, with the approval of the Governor: Providing, however, That **[State-owned road building] such** equipment shall not be rented **[to political subdivisions of the Commonwealth]** for periods exceeding three months, and to sell at cost to any agency, bureau or department of the Federal Government, any road or bridge building material for which the department may have no immediate need. Where the Department of **[Highways] Transportation** cannot utilize or salvage any bridge or structure that is scheduled for demolition or dismantling, then the Department of **[Highways] Transportation** shall declare the same surplus and turn the same over to the Department of Property and Supplies to dispose of such surplus material. In disposing of such material, the Department of Property and Supplies shall, on behalf of the Commonwealth of Pennsylvania, sell same at public sale to the highest responsible bidder but only after giving first preference and priority to boards of township supervisors, boards of township commissioners, councils of boroughs and cities, and boards of county commissioners in the county within which the State highway or bridge is

located to purchase said surplus at a scrap value [and] *less* cost of removal, and second priority to similar boards, councils and municipalities of Pennsylvania in adjacent counties at scrap value [and cost for] *less cost of* removal.

The board, council or municipality so purchasing said scrap material shall be required to dismantle and remove scrap within the time period stipulated by the Department of Property and Supplies.

If more than one board, council or municipality having the same degree of priority as is herein provided shall request or offer to purchase said surplus material, the decision as to which board, council or municipality shall receive preference shall be made or determined by the Department of [Highways] *Transportation* and *the Department of* Property and Supplies according to need.

In case such necessary dismantling and removal from said site is not complied with within a stipulated time limit, then the Department of [Highways] *Transportation* shall have the right to dismantle such bridge or structure and dispose of said material, bridge or structure as per policies agreed to between the Departments of [Highways] *Transportation* and Property and Supplies.

In the event that the board, council or municipality to whom such surplus was sold shall fail to remove and dismantle the structure within the time period so provided, such sale shall be voided, and the Department of Property and Supplies shall then be free to subject such surplus to sale anew in accordance with the provisions of this clause (f). In the event of such contingency, all purchase moneys paid over to the Commonwealth by the defaulting board, council or municipality shall be refunded by the Commonwealth.

All bridges or structures turned over to boards of township supervisors, boards of township commissioners, council of boroughs, towns or cities, or boards of county commissioners shall be used solely for construction, reconstruction, maintenance and repair of highway, street or road facilities in such political subdivisions.

* * *

Section 15. Section 2004, the first paragraph and clause (c) of section 2005 and the first paragraph of section 2006, of the act, are amended to read:

Section 2004. [Highway] Districts.—The Department of [Highways] *Transportation* shall have the power, and its duty shall be, to divide the State into suitable [highway] districts or divisions or both, and place in charge of each such district or division or both such [employe of the department as the Secretary of Highways shall] *person as the Secretary of Transportation may in his discretion deem advisable to serve at the pleasure of the secretary*. Each such employe shall perform such duties in connection with his district or division or both as the [department] *Secretary of Transportation* shall prescribe.

Section 2005. General Road Improvement.—The Department of **[Highways] Transportation** shall have the power, and its duty shall be:

* * *

(c) In all reasonable ways, to advise and give information to county, city, borough, incorporated town, or township officers, having authority over highways and bridges, relative to the *design*, construction, repairing, alteration, and maintenance of such highways and bridges;

* * *

Section 2006. Township Roads.—The Department of **[Highways] Transportation** shall have the power, and its duty shall be:

* * *

Section 16. Section 2007 of the act is repealed.

Section 17. Sections 2008 and 2009 of the act are amended to read:

Section 2008. Toll Roads and Bridges.—The Department of **[Highways] Transportation** shall have the power to acquire, for and on behalf of the Commonwealth, by purchase or otherwise, turnpike or toll roads, or any parts thereof, or toll bridges, in such manner and under and subject to such terms and conditions as may now or hereafter be provided by law.

Section 2009. Rebuilding County Bridges Destroyed by Flood, Fire and Other Casualty.—The Department of **[Highways] Transportation** shall have the power, and its duty shall be, to prepare plans for and rebuild county bridges over navigable rivers and other streams, where such bridges have been destroyed by flood, fire, or other casualty, as may be provided by law: Provided, however, That such bridges shall be rebuilt only if and when the General Assembly shall have specifically appropriated funds for such purpose.

Section 18. Section 2011 of the act, added August 14, 1963 (P.L.918), and amended in part December 15, 1965 (P.L.1088), is amended to read:

Section 2011. State **[Highway] Transportation** Commission.—(a) The commission shall hold regular meetings throughout the State, as may be determined and announced, which meetings shall be open to the public at all times. The **[first appointed]** members shall meet *at the call of the Secretary of Transportation* at the State Capitol during the **[first week of January, 1964] month of January**, or as soon thereafter as possible, to organize as the State **[Highway] Transportation** Commission. **[At the first annual meeting and annually thereafter the]** *The* commission shall *biennially* elect a secretary who shall be a member of said commission.

(b) The commission may hold public hearings, at its discretion or it may designate one or more of its members to hold such public hearings for the purpose of securing all pertinent information it may deem necessary and to comply with the provisions of Title 23, U. S. Code, "The Federal Interstate Highway Law of 1956," and amendments thereto.

At any hearing or meeting before the commission on the approval or disapproval of the selection of any State **[highway route] transportation**

route or program, comparative estimates may be presented of the effects of the use of alternative [routes] *transportation route or program*. Estimates based on similar assumptions may be presented of the effect that the selection of any alternative [route] *transportation route or program* would have upon economic or social values, including, but not limited to, property values, State and local public facilities and local [highway] traffic. The commission shall compile and submit to the Governor and the Secretary of [Highways] *Transportation* for their consideration the information acquired at such hearings.

(c) The commission shall have the power, and its duties shall be, to gather and study all available information, data, statistics and reports, relating to the [need] *needs* for highway construction or reconstruction *and for needs of rapid transit, railroad, omnibus, marine and other mass and bulk transportation facilities and services, and aviation and airport facilities and services* in the Commonwealth to determine on the basis of available information, data, statistics and reports, the highways *rapid transit, railroad, omnibus, marine and other mass and bulk transportation facilities and services, and aviation and airport facilities and services* which should be constructed or reconstructed and the recommended order of priority in which such highways *rapid transit, railroad, omnibus, marine and other mass and bulk transportation facilities and services, and aviation and airport facilities and services* should be constructed or reconstructed and to certify from time to time the results of such determination to the Governor, to the General Assembly and to the Secretary of [Highways] *Transportation*, for their consideration. [Highway] *Transportation* programs so determined shall not be changed, deleted or altered, [with the exception of secondary highways and highways financed one hundred percent by State funds, except by the commission] *except by the commission or as provided in subsection (d) of this section*.

(d) *In view of the particular sensitivity of special instrumentalities of the Commonwealth specifically created to serve and coordinate local mass transportation needs throughout metropolitan areas within the Commonwealth, the determination of needs and programs and the order of priority in which rapid transit, railroad, omnibus and other mass transportation facilities and services which affect or relate to urban common carrier mass transportation, as defined in the Pennsylvania Urban Mass Transportation Assistance Law of 1967, are to be constructed or reconstructed in the local service area of any such instrumentality shall be as determined by said instrumentality; the determination of needs and programs and the order of priority in which highways, marine, aviation and airport facilities and other non-mass transportation facilities are to be constructed or reconstructed in the local service area of any such instrumentality shall be as determined by the commission but only after thorough prior consultation by the*

commission with said instrumentality and coordination of the commission's plans with the plans of said instrumentality. For purposes of this subsection, neither the commission nor any said special instrumentality of the Commonwealth shall arbitrarily, unreasonably or capriciously reject any need, program or priority presented to it under this subsection.

[(d)] (e) The commission shall recommend to the General Assembly a system of classification of highways based upon information supplied by the Department of **[Highways] Transportation** and data acquired as a result of its own study or investigation from hearings and otherwise. The commission shall submit and recommend to the General Assembly such highway classification together with a plan for the development and improvement thereof with priorities based upon studies of needs and sufficiency ratings.

[(e)] (f) The commission shall promulgate regulations not inconsistent with provisions of this section for the execution of the powers and duties herein delegated to them.

[(f)] The commission shall semi-annually advise and make recommendations to the Governor, the General Assembly and the Secretary of Highways to aid the department in maintaining a construction program on a basis of uniformity and continuity.]

Section 19. (a) The Pennsylvania Aeronautics Commission created by the act of April 9, 1929 (P.L.177), known as "The Administrative Code of 1929," is abolished.

(b) The Hazardous Substances Transportation Board created by the act of November 9, 1965 (P.L.657), known as the "Hazardous Substances Transportation Act," is hereby transferred to the Department of Transportation from the Department of Revenue.

(c) All other boards, bureaus and commissions whose functions and duties are hereby transferred to the Department of Transportation are abolished.

Section 20. (a) All personnel, allocations, appropriations, agreements, equipment, files, records, classified data files, maps, air photographs, and other material which are used, employed or expended in connection with the duties, powers or vocations transferred by this act or which relate to the administration and enforcement of the act of April 9, 1929 (P.L.177), known as "The Administrative Code of 1929," as it relates to the Department of Highways, to the Bureau of Traffic Safety of the Department of Revenue, the Bureau of Motor Vehicles of the Department of Revenue, the Pennsylvania Aeronautics Commission and to the Mass Transportation Division in the Bureau of Community Development in the Department of Community Affairs are hereby transferred to the Department of Transportation with the same force and effect as if the appropriations had been made to and said items had been the property of the Department of Transportation in the first instance.

(b) All contracts, agreements, and obligations which were incurred in connection with the powers, duties or vocations transferred by this act or

which relate to the administration of the act of April 9, 1929 (P.L.177), known as "The Administrative Code of 1929," as it relates to the Department of Highways, to the Bureau of Traffic Safety of the Department of Revenue, the Bureau of Motor Vehicles of the Department of Revenue, the Pennsylvania Aeronautics Commission and to the Mass Transportation Division in the Bureau of Community Development in the Department of Community Affairs are hereby transferred to the Department of Transportation with the same force and effect as if the said contracts, agreements, and obligations had been incurred or entered into by said Department of Transportation.

(c) All personnel transferred to the Department of Transportation from other State agencies pursuant to this act shall retain any civil service employment status assigned to said personnel in said agencies.

Section 21. (a) The act of April 29, 1959 (P.L.58), known as "The Vehicle Code," is repealed in so far as it is inconsistent herewith.

(b) The act of January 22, 1968 (Act No. 8), known as the "Pennsylvania Urban Mass Transportation Assistance Law of 1967," is repealed only in so far as it imposes powers and duties on the Department of Community Affairs.

(c) Effective July 1, 1970, the act of May 1, 1929 (P.L.1046) entitled "An act appropriating the moneys in the Motor License Fund," is repealed in order that the General Assembly shall have the power and the duty to make appropriations from the Motor License Fund within the limitations established by Article VIII, section 11 of the Pennsylvania Constitution and section 2001.2 of this act.

(d) All other acts and parts of acts, general, local and special, are repealed in so far as they are inconsistent herewith.

Section 22. Nothing contained in this act shall impair, suspend, contract, enlarge or extend or affect in any manner the powers and duties of the Pennsylvania Public Utility Commission or any authority created according to the provisions of the Metropolitan Transportation Authorities Act of 1963.

Section 23. This act shall take effect July 1, 1970 or immediately upon the Governor issuing his proclamation stating that the Department of Transportation is organized and ready to perform the powers, duties and responsibilities granted to it by this act, whichever shall first occur.

APPROVED—The 6th day of May, A. D. 1970.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 120.


Secretary of the Commonwealth.