

No. 1988-188

## AN ACT

HB 2095

Amending the act of July 5, 1984 (P.L.587, No.119), entitled "An act empowering the Department of Transportation to preserve and improve rail freight service in the Commonwealth by making grants, loans or other assistance available to qualified applicants; authorizing a comprehensive rail study; making an appropriation; and making repeals," changing the name of the Rail Freight Policy Committee; increasing the membership on the committee; further providing for the selection of the chairperson; extending certain grants over two fiscal periods; and extending the Rail Freight Advisory Committee for an additional five years.

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

Section 1. The definition of "committee" in section 3 of the act of July 5, 1984 (P.L.587, No.119), known as the Rail Freight Preservation and Improvement Act, is amended to read:

Section 3. 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:

\* \* \*

"Committee." The Rail Freight [Policy] *Advisory* Committee created by this act.

\* \* \*

Section 2. Section 4 of the act is amended to read:

Section 4. Rail Freight [Policy] *Advisory* Committee.

(a) Creation.—There is hereby created a Rail Freight [Policy] *Advisory* Committee, which shall consist of [13] 24 members. The members shall be [the Secretary of Transportation, ex officio, who shall act as chairman, the Secretary of Commerce, ex officio, the Secretary of Community Affairs, ex officio, the Chairman of the Public Utility Commission, ex officio, three members of the House of Representatives to be appointed by the Speaker, two shall be members of the majority party, and one shall be a member from the minority party, three members of the Senate to be appointed by the President pro tempore, two shall be members of the majority party, and one shall be a member from the minority party, two representatives of railroad companies, one of a Class I railroad and one of a Class III railroad, to be appointed by the Governor, who shall have extensive experience and knowledge of rail freight transportation activities throughout the Commonwealth, and one representative of a railroad shipper, to be appointed by the Governor, who shall have extensive experience and knowledge of rail freight transportation activities throughout the Commonwealth.] *as follows:*

(1) *The Secretary of Transportation, ex officio.*

- (2) *The Secretary of Commerce, ex officio.*
- (3) *The Chairman of the Pennsylvania Public Utility Commission, ex officio.*
- (4) *The Chairman and Minority Chairman of the Senate Transportation Committee.*
- (5) *The Chairman and Minority Chairman of the Transportation Committee of the House of Representatives.*
- (6) *Seventeen members of the public representing the areas of concern specified who shall have extensive experience and knowledge of rail freight transportation activities throughout the Commonwealth to be appointed by the Governor as follows:*
  - (i) *Two representatives of Class I railroad companies.*
  - (ii) *Three representatives of regional railroad/short line operation.*
  - (iii) *Six representative rail shippers, each to represent one of the following areas:*
    - (A) *Coal.*
    - (B) *Steel.*
    - (C) *Lumber.*
    - (D) *Intermodal.*
    - (E) *Chemical.*
    - (F) *Food products/agriculture.*
  - (iv) *One representative from the Pennsylvania Chamber of Commerce.*
  - (v) *Two representatives of regional/local economic development groups.*
  - (vi) *Two representatives of regional/local planning commissions.*
  - (vii) *One representative of rail contractors/suppliers.*

Each member may designate a representative to serve in his or her stead. A member who designates a representative shall notify the chairman, in writing, of the designation.

(b) *Terms of appointees.*—The term of all members of the committee appointed by the Governor shall be for three years, however, the initial terms of these members shall be as follows:

- (1) *One year for the representative of a Class I railroad.*
- (2) *Two years for the representative of a Class III railroad.*
- (3) *Three years for the representative of a railroad shipper.*

Any member of the committee may be reappointed for an additional term or terms. Any person appointed to fill a vacancy shall serve only for the unexpired term.

(c) *Meetings and expenses.*—The committee shall meet at least four times every 12 months, but may hold such additional meetings as are called by the chairman or by petition of at least **[four]** *seven* committee members. The **[railroad and shipper]** *public* members of the committee shall be allowed per diem expenses, to be set by the committee, but not to exceed \$75. The department shall provide appropriate staff support to enable the committee to properly carry out its functions.

(d) Powers and duties.—The power and duty of the committee shall be to advise and comment on the comprehensive rail freight study, to advise and comment on all phases of the rail freight transportation program activities being undertaken or financially assisted by the department, and to propose methods, strategies or technologies for improving rail freight transportation services systems or facilities within the Commonwealth. The committee shall periodically submit reports of its deliberations and conclusions to the Governor, members of the General Assembly and the State Transportation Commission. The committee *and its statutory functions and duties* shall terminate [its] and go out of existence on [November 30, 1988.] *December 31, 1993, unless reestablished or continued by the General Assembly. Evaluation and review, termination, reestablishment and continuation of the agency shall be conducted pursuant to the provisions of the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act.*

(e) Chairperson.—*The members of the committee shall annually elect a chairperson, a vice chairperson and a secretary from among the public members appointed to the committee.*

Section 3. Section 5(c) of the act, item vetoed by the Governor July 5, 1984 (P.L.587, No.119), is amended to read:

Section 5. Comprehensive rail freight study.

\* \* \*

(c) Appropriation.—The [sum of \$750,000, or as much thereof as may be necessary, is hereby appropriated] *General Assembly shall annually appropriate funds* to the department for the exclusive purpose of carrying out the comprehensive rail freight study, including department administrative expenses. [Unexpended funds appropriated shall remain available for expenditure until November 30, 1988.]

Section 4. Section 6(b) of the act is amended to read:

Section 6. Program authority.

\* \* \*

(b) Guidelines for grants.—The following shall govern all grants made under the authority of subsection (a):

(1) A responsible level of local financial participation, to be determined by the department, shall be required for each category of project authorized by this section.

(2) A grant shall be made only upon application filed by a grantee reviewed and approved by the department. No grant shall exceed the amount requested by a grantee. An amended grant request need not be filed by a grantee where a proposed contract amendment does not exceed the amount previously requested.

(3) A grant may be made with reference to any appropriate project regardless of when it was first commenced or considered and regardless of whether the costs with respect thereto shall have been incurred prior to the time the project is undertaken or the project grant is applied for or made. In the case of a project involving accelerated maintenance or rehabilitation, grants shall be made by the department only after receipt of satisfactory documentation concerning the condition of the rail facilities involved

before and after the accelerated maintenance or rehabilitation. Where the department contracts for a grant based upon estimated costs, payments may be made thereunder prior to the time costs are actually incurred, however, the department shall adjust the payments under any agreement before the end of the fiscal year involved, based upon the most recent available actual data.

*(3.1) Any grant made for purposes of accelerated maintenance projects or capital projects shall continue for two fiscal years and shall not lapse at the end of the fiscal year in which that grant was awarded.*

(4) No agreement shall impair, suspend, contract, enlarge or extend or affect in any manner the powers of the Pennsylvania Public Utility Commission, the Interstate Commerce Commission or any other regulatory agency having jurisdiction over rail freight transportation services, systems and facilities.

\* \* \*

Section 5. This act shall take effect immediately and shall be retroactive to November 30, 1988, if enacted after November 30, 1988.

APPROVED—The 21st day of December, A. D. 1988.

ROBERT P. CASEY