

No. 1997-60

AN ACT

SB 1160

Providing for the divestiture of airport property; imposing obligations on the Department of Transportation; and making an appropriation.

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 Airport Divestiture Act.

Section 2. Declaration of purpose.

It is the purpose of this act to authorize the Pennsylvania Department of Transportation to transfer to the Susquehanna Area Regional Airport Authority the real estate, buildings, assets and obligations attendant to and necessary for the operation of the Capital City Airport and Harrisburg International Airport.

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:

“Account.” The Aviation Restricted Revenue Account.

“Airports.” The Capital City Airport and the Harrisburg International Airport.

“Authority.” The Susquehanna Area Regional Airport Authority.

“Department.” The Department of Transportation of the Commonwealth.

“Property.” All assets used in the operation of the airports, including, but not limited to, all equipment, machinery, fixtures, files, records, contracts, agreements, receivables, licenses, certificates, permits and supplies. The term shall include all legal or equitable interests in real and personal property as well as all rights and obligations arising out of the operation of the airports.

Section 4. Conveyance.

The department, with the approval of the Governor, is authorized on behalf of the Commonwealth to convey to the authority prior to January 3, 1998, for the sum of \$1.00, all property used in the operation of the airports and the following land:

(1) All that parcel of land situate in Lower Swatara Township, County of Dauphin, and Commonwealth of Pennsylvania, conveyed to the Commonwealth of Pennsylvania by the Highspire Boating Association by deed dated April 28, 1988, and recorded in Record Book 1117, Pages 32 through 34, in the Office of the Recorder of Deeds of Dauphin County on May 23, 1988, described as follows:

Containing 9.646 acres, more or less, being a portion of the same property conveyed or devised to the Highspire Boating Association, AKA Highspire Boat Club, by indenture of the Penn Central Corporation dated April 30, 1980, and recorded in Record Book 129, Page 99, in the Office of the Recorder of Deeds of Dauphin County on May 30, 1980, which contains 18.391 acres, more less.

(2) All that parcel of land situate in the Borough of Middletown, County of Dauphin, Commonwealth of Pennsylvania, being a 1.808 acre, more or less, portion of the same property conveyed or devised to The Pennsylvania Railroad Company by indenture of The Pennsylvania Canal Company dated October 31, 1901, and recorded in Deed Book Z, Volume 10, Page 429, in the Office of Recorder of Deeds of Dauphin County, Pennsylvania, the 1.808 acre parcel being bounded on the southeast by property conveyed or devised to Middletown Borough Authority by indenture of Robert W. Blanchette et al., Trustees of the Property of Penn Central Transportation Company, dated September 30, 1976, and being bounded on the northwest by property conveyed or devised to the United States of America by indenture of The Pennsylvania Railroad Company, dated September 15, 1965.

(3) All that tract, piece or parcel of land, with the improvements erected thereon, situate, lying and being in the Township of Lower Swatara, County of Dauphin, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at a point, said point being a corner common to the land of the Olmsted Air Force Base and land now or formerly of the Jednota Orphanage, on the northerly right-of-way line of the Pennsylvania Railroad, said point being further located north 43 degrees 51 minutes east 242.64 feet or at the northeasterly extremity of reference line A-C, said point being at the southwesterly corner of the tract about to be described; thence with the land of the said orphanage the following bearings and distances: north 19 degrees 10 minutes east 630.30 feet; north 11 degrees 6 minutes east 146.85 feet; north 11 degrees 9 minutes west 206.25 feet and north 11 degrees 51 minutes east 297 feet, more or less, to the center line of Township Road 382; thence continuing along the center line of Township Road 382 south 76 degrees 21 minutes east 224.68 feet, more or less, to a point, which point is also south of certain lands conveyed to the Pennsylvania State University by deed dated May 12, 1966; thence continuing along the center line of Township Road 382 south 41 degrees 46 minutes east 198.60 feet, more or less, to a point; thence continuing along the center line of Township Road 382 south 39 degrees 54 minutes east 797.19 feet; thence continuing along the center line of said road south 65 degrees 33 minutes east 583.34 feet to a point; thence south 26 degrees 30 minutes west 453.85 feet to a point; thence with the Rosedale Plan of Lots north 38 degrees 24 minutes west 84.25 feet; thence by a curve to the right having a radius of 400 feet subtended by the cord north 38 degrees 24 minutes west 103 feet to a point; thence with the same north 53 degrees 9 minutes west 104.45 feet to a point; thence south 18 degrees 40

minutes west 70.45 feet to a point on the northeasterly line of the Old Pennsylvania Canal; thence with the line of said canal the two following courses: south 39 degrees 35 minutes east 12 feet and south 42 degrees 25 minutes east 138 feet to a point on the northeasterly right-of-way line of State Route 230; thence with the said highway the following bearings and distances: north 83 degrees 25 minutes west 108.85 feet; north 80 degrees 25 minutes west 372.90 feet; north 79 degrees 10 minutes west 676.50 feet; north 78 degrees 20 minutes west 209.55 feet to the place of beginning.

Containing 29 acres, more or less, and being Tracts 22, 23, 24, 25, 26 and 27 acquired by the Government for the Olmsted Air Force Base.

(4) All that tract, piece or parcel of land, with the improvements erected thereon, situate, lying and being in the Township of Lower Swatara, County of Dauphin, Commonwealth of Pennsylvania, bounded and described as follows:

Beginning at an iron pin, said iron pin being on the south right-of-way line of the Pennsylvania Railroad Company, said point also being the most westerly of this parcel; thence along the said R.R.R./W.L. the following 23 courses: south 64 degrees 46 minutes 15 seconds east 405 feet to an iron pin; thence south 26 degrees 43 minutes 15 seconds west 36 feet to an iron pin; thence south 64 degrees 46 minutes 15 seconds east 553.40 feet to an iron pin; thence along a curve to the left south 71 degrees 9 seconds east a chord distance of 1254.14 feet to an iron pin, said curve having a radius of 5769.15 feet, the arc length of 1256.20 feet; thence south 78 degrees 5 minutes 45 seconds east 607.30 feet to an iron pin; thence south 73 degrees 10 minutes 45 seconds east 701.40 feet to a rail; thence south 78 degrees 35 minutes 45 seconds east 267.86 feet to a rail; thence south 78 degrees 35 minutes 45 seconds east 18.64 feet to a conc. mon.; thence south 87 degrees 11 minutes 45 seconds east 31.60 feet to a rail; thence south 87 degrees 11 minutes 45 seconds east 968.25 feet to a conc. mon.; thence south 87 degrees 11 minutes 45 seconds east 1019.85 feet to a conc. mon.; thence south 82 degrees 37 minutes 45 seconds east 997.10 feet to a rail; thence south 82 degrees 37 minutes 45 seconds east 900 feet to a post; thence south 25 degrees 42 minutes 15 seconds west 54.85 feet to a conc. mon.; thence south 81 degrees 1 minute 45 seconds east 754.10 feet to an iron pin; thence north 40 degrees 1 minute 15 seconds east 86.69 feet to an iron pin; thence south 78 degrees 31 minutes 45 seconds east 300.17 feet to a rail; thence south 77 degrees 3 minutes 45 seconds east 1066 feet to a conc. mon.; thence south 21 degrees 11 minutes 15 seconds west 10.34 feet to a conc. mon.; thence south 77 degrees 14 minutes 35 seconds east 716.50 feet to an iron pin; thence south 77 degrees 48 minutes 45 seconds east 63 feet to an iron pin; thence south 80 degrees 36 minutes 45 seconds east 211.93 feet to a railroad spike; thence south 81 degrees 27 minutes 45 seconds east 843.90 feet to a stake in the conc. walk, said stake being in the southwest corner of the Wilson Street Bridge over the Pennsylvania Railroad; thence south 31 degrees 19 minutes 45 seconds east 126.53 feet to a railroad spike in Wilson Street; thence along

the south side of Wilson Street Extended south 59 degrees 6 minutes 45 seconds east 287.92 feet to a railroad spike in Grant Street; thence by the same south 30 degrees 46 minutes 15 seconds west 260 feet to a railroad spike in the south side of Ann Street Extended; thence by the same south 59 degrees 6 minutes 45 seconds east 20 feet to a railroad spike on the west side of Grant Street; thence by the same south 30 degrees 46 minutes 15 seconds west 1107.36 feet to an iron pin in the side walk on the north side of Mud Pike Extended; thence by the same north 51 degrees 57 minutes 45 seconds west 800.20 feet to a conc. mon.; thence south 15 degrees 20 minutes 15 seconds west 36.50 feet to a conc. mon.; thence south 15 degrees 20 minutes 15 seconds west 95.55 feet to an iron pin; thence south 57 degrees 45 seconds east 26.80 feet to a conc. mon. on the line of Metropolitan Edison Company; thence by the same the following seven courses: south 15 degrees 37 minutes 15 seconds west 140 feet to a conc. mon.; thence north 66 degrees 30 minutes west 11.15 feet to a conc. mon.; thence south 15 degrees 28 minutes west 1000 feet to a conc. mon.; thence south 14 degrees 37 minutes 45 seconds west 230 feet to a conc. mon.; thence south 13 degrees 5 minutes 45 seconds west 405 feet to a conc. mon.; thence north 76 degrees 37 minutes 15 seconds west 14.80 feet to a conc. mon.; thence south 13 degrees 13 minutes 45 seconds west 310.83 feet east to a point, said point being on the shore line of the Susquehanna River; thence by the same the following five courses: north 76 degrees 46 minutes 15 seconds west 137.20 feet to a point; thence south 26 degrees 50 minutes west 783.90 feet to a point; thence north 63 degrees 10 minutes west 10340.60 feet to a point; thence north 3 degrees 10 minutes west 864.30 feet to an iron pin; thence north 57 degrees 1 minute west 310.94 feet to a point; thence north 26 degrees 43 minutes 15 seconds east 430 feet to an iron pin, a place of beginning.

Containing 643.16 acres.

(5) All those tracts, pieces or parcels of land situate in Fairview Township, York County, Pennsylvania, bounded and described as follows:

Beginning at an iron pin in the center line of the concrete roadway of Lewisberry Road, at the intersection of said line with the easterly line of York Road; thence along the center line of said concrete roadway of the Lewisberry Road north 55 degrees 13 minutes east 200 feet to an iron pin; thence along lands now or formerly of John E. Myers south 34 degrees 47 minutes east 331.1 feet to a point; thence along said lands now or formerly of John E. Myers south 55 degrees 13 minutes west 119.91 feet to a point; thence by lands of same south 59 degrees 8 minutes west 80.25 feet to a point on the easterly line of York Road; thence along the easterly line of York Road north 34 degrees 47 minutes west 325.6 feet to a point, the place of beginning.

Being the same premises which Fred A. Gettys & Associate, Inc., successor by merger to Johansen & Dugan, Inc., by its deed dated April 4,

1991, and recorded in the York County Recorder's Office in Deed Book 146, at Page 1073, conveyed to Stephen R. & Krista Y. Johansen, his wife.

(6) All those certain three tracts, pieces or parcels of land situate in Fairview Township, York County, Pennsylvania, bounded and described as follows:

Tract No. 1

Beginning at a point in the center of the concrete highway at the corner of the land herein conveyed and that of E. E. Flurrie and other land of the grantors; thence along the line of land of said E. E. Flurrie south 87 degrees 30 minutes east 195.6 feet to a stone; thence continuing along the land of said E. E. Flurrie north 2 degrees 30 minutes east 245 feet to a stone at the corner of land herein conveyed and that of E. E. Flurrie and Baron Von Bestecki; thence along the land of said Bestecki south 87 degrees 30 minutes east 1155.5 feet to a post at the corner of the land herein conveyed and that of C. Garver; thence along the line of land of said C. Garver south 17 degrees, 15 minutes west 1759.25 feet to a stake at the corner of the land herein conveyed and land of Edison and Chester Good; thence along the land of said Good Brothers north 74 degrees 15 minutes west 722 feet, more or less, to a point in the center of the concrete pavement of the Susquehanna Trail, or State Highway Route Number 111; thence along said trail and other land of the grantors north 14 degrees 52 minutes west 411.7 feet to a point in the center of aforementioned concrete pavement; thence continuing along the same north 6 degrees 17 minutes west 172 feet to a crossmark in the center of said concrete pavement at the intersection of the Lewisberry Road; thence continuing along the Susquehanna Trail and other lands of the grantors north 1 degree 55 minutes west 552.8 feet to a point in the center of the concrete pavement; thence continuing along the same north 3 degrees east 173 feet to the place and point of beginning.

Containing 39 acres.

Excepting therefrom that parcel of land containing 3.21 acres, located along the southern boundary of the aforesaid described tract of land, which exception was conveyed by the Capital Landing Field Company, by deed dated December 27, 1935, to the Mt. Olivet Cemetery Association.

Being the major portion of that tract of land which, by deed dated May 29, 1929, and recorded in Deed Book Vol. 24-K, Page 689, was conveyed by Florence E. Huber to the Capital Landing Field Company.

Tract No. 2

Beginning at a post at the corner of Mt. Olivet Cemetery on the Public Road; thence south 63.75 degrees east 50.8 perches to a point near a white oak stump joining lands of Martin Kaufman; thence south 75 degrees east 30 perches to a post; thence north 15.25 degrees east along lands of Jacob Haldeman heirs 253.3 perches to a point in the center of turnpike; thence south 88.25 degrees west 14 perches to a point in the center of turnpike; thence north 73.75 degrees west 16.8 perches to a point in the center of the pike; thence south 17 degrees west 1.2 perches to a post; thence north 77.25

degrees west 13.8 perches to a post; thence south 16.25 degrees west 13.2 perches to a point; thence north 73.5 degrees west 74.4 perches to a post; thence south 16.25 degrees west 5.6 perches to a post; thence north seventy-three and one-half (73.5) degrees west 4 perches to a post; thence south 15.5 degrees west along the lands of A. Ross heirs and Jacob Garver heirs 199.8 perches to a post; thence south 76 degrees east 43.7 perches to a post; thence south 14.25 degrees west 20 perches to a post, the place of beginning.

Containing 175 acres and 142 perches.

Excepting therefrom that parcel of land containing five acres and one hundred twenty-two and eight-tenths (122.8) perches, more or less, which exception was conveyed to the Mt. Olivet Cemetery Association by Annie Baughman by deed dated June 11, 1908, and recorded June 19, 1908, in York County Deed Book Vol. 16-B, Page 690.

Also excepting therefrom that parcel of land containing 28,862.495 square feet conveyed to the Patrick W. Milano Detachment, Marine Corps League, pursuant to the act of April 20, 1988 (P.L.366, No.58), described as beginning at a point, said point being the southeast corner of Ross Avenue and First Street, thence by the southern right-of-way line of Ross Avenue, south 75 degrees 58 minutes 00 seconds east at a distance of 200 feet to a point at lands of Pennsylvania Department of Transportation, Airport. Thence by the same, generally following the toe of slope, the following three courses and distances:

(1) South 50 degrees 48 minutes 50 seconds west a distance of 95.45 feet to a point.

(2) South 36 degrees 17 minutes 51 seconds west a distance of 96.02 feet to a point.

(3) South 57 degrees 35 minutes 02 seconds west a distance of 91.77 feet to a point.

Thence by the same, north 58 degrees 14 minutes 21 seconds west a distance of 45.40 feet to a point on the eastern right-of-way line of First Street. Thence by the same, north 14 degrees 02 minutes 00 seconds east a distance of 218 feet to a point, the place of beginning.

Also excepting therefrom that parcel of land containing five (5) acres and forty (40) perches, which exception was conveyed by the Capital Landing Field Company, by deed dated March 20, 1930, to the Mt. Olivet Cemetery Association, recorded December 19, 1935, in Deed Book Vol. 26-I, Page 133.

Being the major portion of that tract of land which, by deed dated May 29, 1929, and recorded in Deed Book Vol. 24-K, Page 689, was conveyed by Florence E. Huber to the Capital Landing Field Company.

Tract No. 3

Beginning at a post on the line of the town of New Market; thence by land formerly of Christian Garver south fourteen and one-half (14 1/2) degrees west ninety (90) feet to a post; thence by the same north seventy-four and a half (74 1/2) degrees west sixty-five (65) feet to land of the late Robert J. Ross, deceased; thence by the same north fourteen and one-half (14 1/2)

degrees east ninety (90) feet to a post on the line of the town of New Market; and thence by the town south seventy-four and one-half (74 1/2) degrees east sixty-five (65) feet to the place of beginning.

Containing twenty-two (22) perches.

Being the same tract of land which, by deed dated October 31, 1929, and recorded in Deed Book Vol. 24-N, Page 664, was conveyed by Jacob F. Kreiger and wife to the Capital Landing Field Company.

Section 5. Easements, etc.

The conveyance shall be made under and subject to all easements and rights of others, including, but not confined to, streets, roadways and rights of any telephone, telegraph, water, electric, sewer, gas or pipeline companies, and under and subject to any interests, estates or tenancies vested in third persons, whether or not appearing of record, with respect to any portion of the land or improvements erected thereon.

Section 6. Indemnification.

(a) By department.—The department is authorized to indemnify, defend, save and hold harmless the authority, its members, officers, agents, tenants, consultants, representatives, licensees, invitees and successors and assigns for damages, claims, liabilities, losses, costs and expenses by reason or arising out of:

(1) Any act or negligence or violation by the department of any Federal, State or local law, statute, ordinance, rule or regulation with respect to hazardous substances used, located, spilled or disposed of on or at the airports or other real property subject to the conveyance during the department's ownership.

(2) Actions taken by the department prior to the date of the conveyance pursuant to or in breach of any contract, provided that the department does not waive the jurisdiction of the Board of Claims as to certain matters or its rights to sovereign immunity with regard to claims by third parties against the department or the authority.

(b) By authority.—The authority shall indemnify, defend, save and hold harmless the department and its officials and employees for any damages, claims, liabilities, losses, costs and expenses by reason or arising out of:

(1) Any act or negligence or violation by the authority of any Federal, state or local law, statute, ordinance, rule or regulation or agreement with any environmental agency or authority with respect to hazardous substances used, located, spilled or disposed of on or at the airports or other real property subject to the conveyance.

(2) Actions allegedly taken by the authority subsequent to the conveyance pursuant to or in breach of any contract provided that the authority does not waive its rights to sovereign immunity with regard to claims by third parties against the authority or the department.

Section 7. Payment to authority; appropriation.

The department is authorized to pay to the authority, in accordance with the terms of a divestiture agreement entered into under this act, up to

\$8,994,000 from the Aviation Restricted Revenue Account in the Motor License Fund for the continuing operation of the airports. Such funds as are necessary, up to this amount, are hereby appropriated to the department for fiscal year July 1, 1997, to June 30, 1998, for the purpose of making the payment.

Section 8. Costs and fees.

(a) The authority will pay to the department, in accordance with the terms of a divestiture agreement entered into under this act, an amount, not to exceed \$16,214,326, equal to the principal balance or necessary to cover debt service, as of the date of conveyance, of the loans, bonds, notes payable or other instruments for capital improvements and other capital costs at the airports.

(b) All payments to the department made under subsection (a) shall be credited to the Public Improvement Project's subaccount in the Capital Facilities Fund.

(c) Costs and fees incidental to this conveyance shall be borne by the authority.

Section 9. Effective date.

This act shall take effect immediately.

APPROVED—The 19th day of December, A.D. 1997.

THOMAS J. RIDGE