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**Transportation Act of 2007 is Badly Off the Tracks**

Legislate in haste, repent at leisure is a very apt adaptation of the old adage about overly eager nuptials. On the long and shameful list of hastily thrown together bills in Pennsylvania, the recently passed and signed transportation bill—Act 44 of 2007—will most assuredly eventually rank near the pinnacle for disservice to the Commonwealth.

The bill is long, complex and difficult to understand—as one might imagine—in that it not only sets up a new funding scheme for public transportation, including separate funds for operations, asset improvement and new capital initiatives, but also empowers the Turnpike Commission to lease Interstate Highways from the Department of Transportation and convert them to toll roads beginning with Interstate 80. Nonetheless, some very serious concerns are patently obvious; beginning with the fact that tolling I-80 from border to border is a highly contentious issue and could face substantial difficulties in obtaining Federal approval. Tolling an existing Interstate over a distance of 300 miles with its 50 or so interchanges promises to be a daunting and very expensive task.

The legislation allows the Turnpike Commission, upon completing a lease agreement with the Department, to issue \$5 billion in Special Revenue Bonds in annual amounts not exceeding \$600 million with the proceeds to be used to make payments to the Department of Transportation, beginning with a statutorily required \$750 million contribution in the current fiscal year and rising to \$900 million in fiscal 2009-2010 and climbing 2.5 percent annually in subsequent years adjusted downward for certain items such as savings realized by the Department since it will no longer incur the costs to maintain the Interstate.

Besides lease payments to the Department of Transportation, the Turnpike will face enormous costs in (1) planning and installing tolling plazas, (2) lane changes, interchange reconfigurations, (3) operating and maintaining the road and tolling operations. Then too, the Commission faces a potentially large settlement with the Federal government for the approval to toll I-80. And lawsuits are almost guaranteed.

The problem for the legislation drafters is that the cost of all this is unknown. Thus, there is every reason to be concerned that unless the Commission raises the fares on the existing Turnpike by a hefty amount, the new toll road might not have enough money to pay all its obligations. Consider that the annual revenue for the current Turnpike, with all its extensions, is only around \$600 million. The Turnpike is an established system. Its fare structure is known and is being factored into the decisions of users. I-80 would be of similar total length as the Turnpike but there is no way to know for sure before the fact what will happen to traffic levels on the road once it is tolled and therefore revenue cannot be confidently predicted. If I-80 generates only \$600 million per year in revenues, there will not be nearly enough funds to meet all the obligations it faces.

In short, with the economic uncertainties that must perforce accompany this massive undertaking along with government's penchant for overestimating benefits and underestimating costs, it is more than likely this plan will jump the tracks and require a General Fund bailout or dedicated special tax bailout before the ink is dry on all the documents. But even more irrational is the bill's failure to take into account the possibility of refusal by the Feds to grant permission to toll I-80. In which case, the whole Transportation Act is rendered a nullity.

To be prudent the General Assembly ought to revisit the Act at the earliest possible opportunity to fix some of these concerns.

But that's not the whole story. Making matters worse, the additional funding for the Port Authority provided for in the Act goes directly against the Governor's Task Force's admonition not to give more money until the Authority has made significant efficiency and cost improvements. Thus, the \$55 million in supplemental funds allows the Port Authority to continue its spendthrift ways and inopportunistically convinces the unions they were correct in their assessment that Harrisburg would eventually find the money necessary to preclude the kind of wholesale and painful changes needed at the Authority.

The long term costs of this Port Authority bailout will be much larger than \$55 million per year. The foregone efficiency savings that could have been achieved will now never happen unless the Act is rewritten to withhold funds until Port Authority shows real progress in improving operational efficiency and addressing its legacy costs. Act 44 shifts much of the egregious costs at the Port Authority onto the backs of I-80 users. Not good policy from any standpoint, except political expediency.

But the piece de resistance and a sharp finger in the eye of all taxpayers of Pennsylvania is the provision of the Act allowing the Port Authority to apply for financial assistance to cover cost overruns for the North Shore Connector project. Paragraph 1519, entitled "Retroactive Authority" states — "Financial assistance may be awarded under this chapter by the Department with reference to an appropriate project irrespective of when it was first commenced or considered and regardless of whether costs with respect to this project were incurred prior to the time the financial assistance is applied for or provided."

Why not just come out and say this section is to ensure the money necessary to build the tunnel will be available? This language needs to be removed forthwith. At the very least, language denying any funds beyond those presently committed by the General Assembly to the North Shore Connector project should be added to the existing wording of paragraph 1519.

All told, Act 44, the 2007 transportation bill, should be scuttled and a new plan devised. There are simply too many flaws in the current plan. The legislature will have to fix it sooner or later. Better to get on with the repairs right away.

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**Jake Haulk, Ph.D. President**

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<p>Allegheny Institute for Public Policy 305 Mt. Lebanon Blvd.* Suite 208* Pittsburgh PA 15234 Phone (412) 440-0079 * Fax (412) 440-0085 E-mail: <a href="mailto:aipp@alleghenyinstitute.org">aipp@alleghenyinstitute.org</a></p>
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