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**Taxpayers Backstop Casino Pledge to Penguins Arena**

It was quite a statement and it took the public—even those who follow such things closely—and many, if not most, state legislators by surprise. In early July, the Executive Director of the Sports and Exhibition Authority (SEA) told reporters that if Mr. Barden were to be unable to meet his pledge of \$7.5 million per year to pay off construction bonds, “there are leases and subleases in place with the state that serve as a ‘backstop’.” No explanation. She simply put it out there as if everyone would know what the leases and subleases are and how they work.

Apparently, the bond underwriters who were drawing up the bond deal for the new arena were not confident that the Barden pledge of \$7.5 million per year was a reliable source of revenue to pay principal and interest. To get the bonds issued at reasonable interest rates, the SEA and the Commonwealth entered into a complex arrangement in which the state of Pennsylvania leases the arena from the SEA, and then the SEA subleases the arena from the Commonwealth. Under this arrangement, the bonds could be and were issued as Commonwealth Lease Revenue Bonds. The Commonwealth’s lease payments will be used to make interest payments on the construction bonds. Meanwhile, the SEA pays the Commonwealth ten dollars each year as its sublease payment.

In turn, the Penguins will lease the arena from the SEA and will control it. Penguin rent payments will be dedicated to retiring the construction bonds, as will the \$7.5 million coming each year from the Gaming Tourism and Economic Development fund, money approved by the General Assembly in July, 2007. All told, bond payments will require about \$19 million per year.

Under the terms of the bond indenture, the Commonwealth will be required to come up with funds to cover any shortfall in the special funds pledged to debt service, including the casino pledge. The terms of the bond issuance state that the full faith and credit of the Commonwealth have not been pledged and any lease payment by the Commonwealth will have to be appropriated by the legislature.

There are several questions about the lease and sublease that must be asked. One, why were these leases not fully explained to the public and the General Assembly, at least the local legislative delegation, before they were finalized and signed? Two, according to section 5 of the Lease, in case of default on any required lease payment by the Commonwealth, the Lease Agreement entitles the SEA to obtain damages in an amount equal to the rent owed along with interest for late payment. Does that mean the SEA can sue the Commonwealth or is there some other process or provision of law that will force the Commonwealth to pay up? Either way, the taxpayers would be on the hook.

Three, why does the Commonwealth Lease provide no revenue source for the Commonwealth? It has taken on all the responsibility for oversight of the project to protect its interests while it has obligated itself (taxpayers) to pay rent and receiving no monetary benefit from the arena project, except for the ten dollars a year rent it will get from the SEA under terms of the sublease back to the SEA, the actual owner of the facility.

This complicated arrangement was almost certainly necessitated by the fact that the pledge of casino dollars to service bond debt was not acceptable to underwriters. And given the state of Mr. Barden's finances, then and now, there is not much question about why that would be the case. So, instead of being straight with the public and the members of the General Assembly, the Governor and the SEA concocted this lease-sublease deal that in effect makes Pennsylvania's taxpayers a co-signer on the arena construction loan.

The details of this arrangement are not easy to get. And little wonder. The participants do not want the public to find out what they are up to. Had the SEA's Executive Director not let the occasion of Mr. Barden's failure to make payments to contractors prompt her to re-assure folks about the funding of the arena, this arrangement might not have come to the public's attention until an actual default occurred. So much for open, transparent governance. Sadly, this type of secretive behavior has become all too common at the SEA and other authorities. It can be categorized as "We will decide what the public needs to know." This alone is a very compelling reason to reform Pennsylvania's authority laws to begin reining in the power of authorities and force them to be more open and transparent.

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

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