

APPENDIX C -- ACT NO. 655 OF 1956, JUNE 1, P. L. (1955) 1944, AS AMENDED; 72 P. S. §§ 2615.1—2615.10

Providing a permanent allocation of a part of the fuels and liquid fuels tax proceeds to cities, boroughs, incorporated towns and townships, for their road, street and bridge purposes; conferring powers and imposing duties on local officers and the Department of Transportation Highways; and making an appropriation out of the Motor License Fund; and repealing existing legislation.

Preamble: Whereas, there is an urgent need for a vast construction, reconstruction and modernization program on Pennsylvania's hundred thousand mile public road system; therefore:

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

Section 1 (72 P.S. § 2615.1). Declaration of policy

In the interest of better roads for all Pennsylvania and an equitable distribution of funds available for highway purposes for use on local roads and streets as related to the burden of highway traffic thereon and the revenues derived therefrom, the General Assembly finds that it is necessary to provide for a permanent allocation of a part of the highway funds among cities, boroughs, incorporated towns and townships, for the roads and streets for which they are responsible, or in townships of the first class for State highways within their respective boundaries, including drainage facilities.

Section 2 (72 P.S. § 2615.2). Definitions.

As used in this act---

- (1) "Department" means the Department of Transportation.
- (2) "Municipality" means any city, borough, incorporated town or township.
- (3) "Roads and streets" means public roads and streets, including bridges, used for travel by horse drawn and motor vehicles and does not include ways, courts and alleys.
- (4) "Court" means a dead-end roadway designed to provide access to properties abutting thereon which has a length of less than two hundred fifty feet or a vehicle turn-around area with a radius of less than forty feet.
- (5) "Alley" means a narrow roadway, usually to the rear of abutting properties, designed for the purpose of access to the rear of such properties and not as a thoroughfare; and every roadway less than sixteen feet in width.
- (6) "Way" means a short stretch of roadway having both terminals in a street or road and designed to provide access to properties abutting thereon.
- (7) "Computer-related hardware, software and training" means electronic devices and their proper and related programming necessary for the electronic processing of information and the associated instruction requisite for the exclusive operation of those devices.

Section 3 (72 P.S. § 2615.3) Appropriation

An amount equal to twenty per centum of five and one-half cents (5 1/2¢) of all taxes collected on each gallon of liquid fuel under “The Liquid Fuels Tax Act” of May twenty-one, one thousand nine hundred thirty-one (Pamphlet Laws 149), and its amendments, and on each gallon of fuel under the “Fuel Use Tax Act” of January fourteen, one thousand nine hundred fifty-two (Pamphlet Laws 1965), and its amendments, is appropriated out of the Motor License Fund to the municipalities of the Commonwealth on the basis and subject to the provisions hereinafter set forth.

In addition to the above appropriation, an amount equal to fifty per centum of that portion of the tax which exceeds seven cents (7¢) per gallon is appropriated out of the Motor License Fund to the municipalities of the Commonwealth on the same basis and condition as provided above.

Section 4 (72 P.S. § 2615.4). Formula for payment; authorized expenditures; manner of payment

The money hereby appropriated to municipalities shall be paid to the municipalities in accordance with the following formula and subject to the provisions of this act:

- (1) The money hereby allocated shall be paid to the cities, boroughs, towns and townships in accordance with the following formula:

Five-tenths of this allocation divided by the total miles of public roads and streets which are maintained by municipalities	MULTIPLIED BY	The number of miles in the particular municipality.
PLUS		
Five-tenths of this allocation divided by the total official population of the municipalities as of January first of the year in which the money is to be paid to the municipalities	MULTIPLIED BY	The official population of the particular municipality as of January first of said year
(EQUALS)		
(Amount due the particular municipality)		

To be expended by the authorities of the respective municipalities

- (i) for the maintenance, repair, construction or reconstruction of such public roads or streets, including bridges, culverts and drainage structures for which they are legally responsible and including the lining of streams incidental to the drainage of highways, and for the maintenance, repair, construction or reconstruction of curb ramps from a road, street or highway to provide for access by individuals with disabilities consistent with Federal and State law;

- (ii) for the acquisition, maintenance, repair and operation of street signs, traffic signs and traffic signal control systems;
- (iii) for the maintenance, repair, construction or reconstruction of alleys, ways and courts for which they are legally responsible. Where road, bridge, alley, way or court work is performed by the political subdivision the moneys herein allocated may be used only for labor, hiring of equipment, payrolls, purchase of material, including repair parts necessary for the maintenance of equipment, small tools, road drags and snow fences and, in addition, an amount not to exceed twenty per centum of the total annual allocation received by each municipality, may be used for the purchase of road machinery and road equipment; and
- (iv) for the acquisition of computer-related hardware, software and training required for the electronic processing of information concerning the funds appropriated and allocated under this act, including the preparation and electronic submission of the required annual reports for payment certification, provided that expenditures under this sub clause may not exceed one thousand dollars (\$1,000) annually.

No municipality shall receive less than the amount allocated to such municipality during the fiscal year ending June 30, 1969. So much as is necessary of the taxes collected on each gallon of liquid fuels under "The Liquid Fuels Tax Act" and on each gallon of fuel under the "Fuel Use Tax Act" is hereby appropriated out of the Motor License Fund to municipalities of the Commonwealth for the purpose of making any additional payments required under the provisions hereof. Funds hereby appropriated shall be in addition to funds appropriated under the provisions of section three of this act.

(2) Deleted by amendment. 1982, Feb. 5, P.L. 9, No. 4, § 1.

(2.1) Any municipality which issues bonds or obligations in accordance with Article VII-A of the Act of June 25, 1941 (P.L. 159) known as the "Municipal Borrowing Law," exclusively for road or street improvement purposes may expend all or any portion of the allocated money for interest and principal payments and sinking fund charges becoming due on such bonds or obligations.

(3) The moneys allocated in clause (1) shall be paid over, in the manner provided by law, by the department to the respective cities, boroughs, towns and townships, on the first days of July and December, 1956, and the first day of April of each subsequent year.

Section 4.1 (72 P.S. § 2615.4a). Minimum appropriation

If the sum appropriated by section three amounts to less than thirty million dollars (\$30,000,000) annually during the calendar years 1956 or 1957, 1958 or 1959, 1960, 1961, 1962, 1963, 1964 or 1965, there is appropriated for each of said years out of the Motor License Fund an amount equal to the difference between thirty million dollars (\$30,000,000) and the lesser amount provided by section three, which sum shall be paid to the municipalities in accordance with the provisions of section four.

Section 5 (72 P.S. § 2615.5). Qualifications for payments; bonded treasurer; reports; special fund; tax levy

In order to qualify for its share of the moneys herein provided, each city, borough, town and township shall ---

- (1) Furnish evidence, annually, to the department that its treasurer is bonded in accordance with law;
- (2) Submit a report, on forms furnished by the department, concerning the way or ways the funds provided in section one of this act shall be expended;
- (3) Submit a proper report, on forms furnished by the Department of Transportation, on the fifteenth day of January for the period ending December thirty-first each year, showing the cost of work done pursuant to the funds provided in section four clause (1) of this act;
- (4) Establish and maintain a special fund into which the moneys provided in section four clause (1) of this Act shall be deposited and into which no other moneys may be deposited or commingled;
- (5) Furnish evidence to the department that a tax to provide funds for road and street purposes is being levied for the year in which the allocation is made.

Section 6 (72 P.S. § 2615.6). Materials, work; specifications, approval supervision.

All materials used and work done with moneys herein allocated shall conform to the current specifications of the department or specifications approved by the department. All work done on State highways shall be subject to the approval, supervision and control of the department.

Section 7 (72 P.S. § 2615.7). Calculation of mileage; calculations involving population

- (a) The calculation of mileage shall be determined, annually, as of the first day of January by the department from reports submitted by the municipalities.
- (b) The calculations involving population shall be made by the department, and shall be based on the latest available official census figures determined on or before the first day of January in the year the money is to be paid to the municipalities. Where the population of any municipality changes by reason of annexation, withdrawal or dissolution, the department shall not be presumed to have notice of such change until furnished with a statement approved by all affected political subdivisions or with an order of a court of competent jurisdiction.

Section 8 (72 P.S. § 2615.8). Copies of laws and regulations

The department shall make available, to the corporate authorities of the municipalities, copies of the laws with special reference to the pertinent provisions thereof, and regulations relating to the receipt and expenditure of any funds authorized herein.

Section 9 (72 P.S. § 2615.9). Amount allocated

The amount allocated hereby to be paid during the calendar year under section three of this act shall be determined by the amount received by the Commonwealth during the preceding fiscal year from the first four and one-half cents ($4\frac{1}{2}\text{¢}$) of the taxes and the portion of the taxes exceeding six cents (6¢) on each gallon.

Section 10 (72 P.S. § 2615.10). Lapse of allocation

Any funds appropriated and allocated under the provisions of clause (1) of section four of this act, withheld from any municipality for failure to comply with any of the provisions of this act for a period of two years, shall lapse.

APPENDIX D

CHAPTER 449. LIQUID FUELS TAX FUNDS

Sec.

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Authority

The provisions of this Chapter 449 issued under act of June 1, 1956 (P.L. (1955) 1944, No.655) (72 P.S. §§ 2615.1---2615.4), unless otherwise noted.

Source

The provisions of this Chapter 449 adopted December 12, 1975, effective December 13, 1975, Pa.B. 3200, unless otherwise noted.

§ 449.1 Purpose and policy.

This chapter is promulgated for the purpose of effecting the fair and uniform administration of the provisions of act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1 - 2615.10) and 75 Pa. C.S. § 9511 (relating to allocation of proceeds), which provide a permanent allocation of a part of the liquid fuels, fuels and oil company franchise tax proceeds to cities, boroughs, incorporated towns and townships, for their road, street and bridge purposes.

Authority

The provisions of this § 449.1 issued under act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1---2615.10); the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511.

Source

The provisions of this § 449.1 amended March 2, 1984, effective March 3, 1984, 14 Pa.B. 732. Immediately preceding text appears at serial page (73613).

§ 449.2 Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicated otherwise:

Alley - A narrow roadway, usually to the rear of abutting properties, designed for the purpose of access to the rear of such properties and not as a thoroughfare; and every roadway less than 16 feet in width.

Court - A dead end roadway designed to provide access to properties abutting thereon which has a length of less than 250 feet or a vehicle turnaround area with a radius of less than 40 feet.

Department - The Department of Transportation of the Commonwealth.

Intergovernmental agencies - Councils of government, area governments or other affiliation of governments or government agencies as are authorized by 62 Pa. C.S. Chapter 19 (relating to intergovernmental relations) to participate in, sponsor, conduct or administer a cooperative purchasing agreement and which expend public monies for the procurement of supplies, services and construction.

Person - Individual, partnership, or corporation; contracts with two or more companies owned or operated by the same person are regarded as one contract.

Road machinery and road equipment - Any machinery or equipment used primarily for the maintenance, repair, construction or reconstruction of public roads or streets, including bridges, culverts, and drainage structures for which municipalities are legally responsible.

Roadway - That portion of a street or highway between the side ditch lines, face of curbs, outside edge of shoulders and gutters, or combination thereof, exclusive of slope areas.

Secretary - The Secretary of Transportation.

Way - A short stretch of roadway having both terminals in a street or road and designed to provide access to properties abutting thereon.

Way, court, and alley - Any way, court or alley established after the effective date of this chapter will not be recognized as a road or street for the purposes of Liquid Fuels Tax participation.

Authority

The provisions of this § 449.2 amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No.655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.2 amended July 21, 1978, effective July 22, 1978. 8 Pa.B. 2075; amended through October 10, 1980, effective October 11, 1980. 10 Pa.B. 4038; amended May 16, 2003, effective May 17, 2003. 33 Pa.B. 2378. Immediately preceding text appears at serial pages (240957) to (240958).

§ 449.3 Advertising, bidding, and bond requirements.

Advertising, bidding and a performance bond are required by statute on purchases and contracts in excess of \$10,000, with certain exceptions indicated in subsection (b). See: sections 1.1 and 1.2 of the act of March 7, 1901 (P.L. 20, No. 14) (53 P.S. §§ 23308.1 and 23308.2); sections 1901--1918 of the act of June 23, 1931 (P.L. 932, No. 317) (53 P.S. §§ 36901--36918); sections 1401--1411 of the act of February 1, 1966 (P.L.(1956) 1656, No. 581) (53 P.S. §§ 46401--46411); the act of May 27, 1953 (P.L. 244, No.34) (53 P.S. §§ 53201--53209); sections 1801--1811 of the act of June 24, 1931 (P.L. 1206, No. 331) (53 P.S. §§ 56801--56811); sections 801--808 of the act of May 1, 1933 (P.L. 103 , No.69) (53P.S. §§ 65801--65809): and the Public Works Contractors' Bond Law of 1967 (8 P.S. §§ 191--202).

(b) Evasion prohibited.

While it is lawful to make a purchase or contract for up to \$10,000 without advertising and bidding, it is unlawful to enter into several less-than-\$10,000 contracts with the same person or with several persons merely for the purpose of evading advertising and bidding requirements.

(c) Bonds.

Bonds shall include the following:

- (1) Bid Bond.
A bid bond guarantees that the bidder will execute the contract in the event he is declared the winning bidder.
- (2) Performance Bond.
A performance bond guarantees that work, materials, and equipment will be provided at the time specified in the contract; however, a performance bond does not guarantee the quality of the work, materials, and equipment.
- (3) Payment Bond.
A payment bond guarantees that the contractor or supplier will pay his workers, subcontractors, and suppliers,

(d) Emergency exception to advertising and bidding requirements.

Whenever municipal officials determine that an emergency condition exists rendering it essential to undertake immediate repair or maintenance work to protect the health, safety, or welfare of the people, such emergency work may be contracted for by the municipality without the necessity of advertising for competitive bids for the project.

- (1) An emergency which will warrant dispensing with advertising for competitive bids must be immediate, unforeseen, and existing. A condition which may or may not arise in the future or a condition which should reasonably have been foreseen in time to advertise for bids will not warrant dispensing with normal advertising and bidding requirements.
- (2) The determination of the emergency and the actions of the municipal officials in contracting for emergency work must be fully documented for department review.

(e) Exception to advertising, bidding, and bonding requirements for Home Rule Charter Municipalities.

In the case of any municipality which has adopted a home rule charter, the Department will recognize charter provisions which are contrary to the advertising, bidding, and bonding requirements set forth in this chapter or in the various municipal codes.

(f) Brand names.

In advertising for equipment to be rented or purchased, or for materials to be purchased or delivered in place, it is unlawful to require or specify any particular make or brand thereof, thereby excluding other makes or brands. A particular brand name or its equivalent may be specified if equal consideration is given to all brands which are reasonably similar to the specified brand. Such specifications shall be reasonable and not merely imposed in order to exclude some brands of equipment or material in favor of other brands.

Authority

The provisions of this §449.3 issued under The Administrative Code of 1929 (71 P.S. §§ 511.3, 512 and 513); and act of June 1, 1956 (P.L. (1955) 1944, No.655) (72 P.S. §§ —2615.10); amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and the act of June 1, 1956 (P.L. (1955) 1944 No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.3 amended through August 20, 1982 effective August 21, 1982, 12 Pa. B. 2802; amended May 16, 2003, effective May 17, 2003, 33 Pa. B. 2378. Immediately preceding text appears at serial pages (240958) to (240959).

§ 449.4 Exceptions to Department specifications.

(a) General Rule.

The Department specifications, as set forth in the current Publication 408, and supplements, apply to all purchases and contracts with the following exceptions:

- (1) Pre-qualification of bidders under Section 102.01 of Publication 408 is not required, except on projects funded in part with State highway funds other than liquid fuels tax funds or with Federal-aid highway funds. See chapter 457 (relating to prequalification of bidders). Section 106.01 of Publication 408, relating to control of materials and approval of sources, does apply to all purchases and contracts.
- (2) Marshal testing to determine the quality of bituminous paving materials (see Pennsylvania Test Method (PTM) 705) is not required if the material is produced in accordance with the master design approved by the Department (see Department Bulletin 27).
- (3) Tailgate-type spreaders, for example, Temple spreaders, may be utilized for applying aggregate for surface treatment, seal coat, and the like.

(b) Pre-approved waiver.

The municipality may request the Department to waive other Department specifications in advance of advertising. Any such pre-approved waiver of specifications must be noted in the bid proposal.

(c) Bituminous paving material equipment.

All machinery, equipment, and plants used in producing or applying bituminous paving materials, whether purchased with 20% funds or rented, shall be of a type approved by the Department.

Source

The provisions of this § 449.4 amended through January 20, 1984, effective January 21, 1984. 14 Pa.B. 232. Immediately preceding text appears at serial page (73616).

§ 449.5 Failure to receive bids.

If a purchase or contract over \$10,000 is advertised and no bids are received, the municipality may not proceed with the purchase or contract unless it is again advertised for bids. If again no bids are received, the municipality may negotiate the purchase or contract on the best terms available within 45 days of the second advertisement if no substantial changes are made in the terms, conditions and specifications contained in the bid proposal. If substantial changes must be made to procure the purchase or contract, the purchase or contract shall be re-advertised and bid on the basis of the changes. NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

Authority

The provisions of this § 449.5 issued under The Administrative Code of 1929 (71 P. S. § § 511.3, 512 and 513); and act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § § 2615.1—2615.10); amended under the Vehicle Code, 75 Pa.C.S. § § 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § § 2615.1—2615.10).

Source

The provisions of this § 449.6 amended through January 20, 1984, effective January 21, 1984, 14 Pa.B. 232. Immediately preceding text appears at serial pages (73617) and (73618).

§ 449.6 Escalator clause in contracts, material purchases and equipment purchases.

There is no requirement for an escalator clause in any contract. However, if, after reasonable inquiry, the municipality, by resolution adopted at a public meeting, determines that it is unlikely that flat unit price bids will be obtainable for certain materials or equipment, the municipality may prepare and insert an escalator clause in the bid proposal to provide that the price of such materials and equipment will increase or decrease over the bid price if and when the cost to the contractor of the materials and equipment or any material ingredient thereof increases or decreases, as a result of a general price increase or decrease by the supplier of the contractor and in an amount directly related to such increase or decrease. An escalator clause is optional; however, if used, it must be included in the bid proposal prepared by the municipality. An escalator clause may not be inserted by the contractor.

Source

The provisions of this § 449.6 amended through January 20, 1984, effective January 21, 1984, 14 Pa.B. 232. Immediately preceding text appears at serial pages (73617) and (73618).

§ 449.7 Purchase of materials and equipment.

(a) Advertisement.

The advertisement for any purchases, whether to be picked up or delivered or, in the case of materials, to be applied in place, shall contain a reasonably complete description and estimated quantities of the major items or categories of items. The advertisement shall also indicate the requirement of a bid or performance bond or both.

(b) Proposal.

The proposal shall contain the approximate number of items or tons, gallons, square yards, the metric equivalent, or other standard unit of measure, required, and as reasonably estimated by the municipality.

- (1) The bidder shall insert in the proposal:
 - (i) The unit price of each item.
 - (ii) The total price for each item (quantity X unit price).
 - (iii) The total price for any group of items which the proposal stipulates shall be supplied by a single bidder.
- (2) Bids, without quantities, are not acceptable.
- (3) Only like items may be required to be supplied by a single bidder.
 - (i) If this requirement is imposed, the proposal shall so indicate.
 - (ii) It is not permissible to require a single supplier to provide both tars and asphalts.
 - (iii) When tar is to be bid, it is not permissible to specify coal tar or to specify water tar.
- (4) Liquid asphalt must be purchased by one of the following:
 - (i) Weight.
 - (ii) Volume (gallons or liters) at 60°F or 15.5°C. Use the conversion table contained in Department Bulletin 25, Publication # 27.

(c) Bonds.

On purchases over \$10,000, suppliers shall provide bonds in accordance with the following chart:

BOND REQUIREMENTS FOR PURCHASE OF MATERIALS AND PURCHASE OR RENTAL OF EQUIPMENT					
	First, Second, & 2A-Class Cities	Third Class Cities	Boroughs	First Class Townships	Second Class Townships
Bid Bond	*	Discretionary with council in a reasonable amount. (53 P.S. § 36901(f))	Discretionary with council, in an amount determined by council. (53 P.S. § 46402 (b)(1))	Not required	Not required
Performance Bond	*	Bond or irrevocable letter of credit, in amount sufficient to council, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P.S. § 36901(g))	At council's discretion. If required, not less than 10% or greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P.S. § 46402 (c))	Not less than 10% nor greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by township commissioners. 53 P.S. § 56802(c)	Not less than 10% or greater than 100%, as specified by township supervisors, furnished within 20 days of award. (53 P.S. § 68102 (g))

* See appropriate municipal code or charter.

NOTE: The provisions of the Public Works Contractors' Bond Law of 1967 may supersede requirements of municipal codes. Consult with the appropriate statutes or consult with the appropriate municipal solicitor, or both, regarding bonding for a particular contract or project.

[The material within these brackets is not part of 67 Pa. Code § 449.7(c) and is provided for informational purposes only. The Public Works Contractors' Bond Law of 1967, as amended, 8 P.S. §§191-202, is attached as Appendix J. For contracts in excess of \$10,000 involving activities to which this law applies, the contractor must furnish financial security, as described in the law, equal to 100 percent of the contract amount, to assure faithful performance of the contract and prompt payment for materials furnished or labor supplied.]

(d) Annual estimate of materials.

Each municipality shall make an annual estimate of its requirements of road construction and maintenance materials, and shall advertise for bids on all items and groups of like items ordinarily supplied by a single supplier – see subsection (b)(3) – which are estimated to exceed \$10,000 for the year. For material estimates between \$4,000 and \$10,000, three telephone price quotes shall be obtained prior to the selection of a supplier. In lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations until a satisfactory audit of the contract is completed by the Department of the Auditor General. If the cost during the year of an unadvertised item or group of like items ordinarily supplied by a single supplier exceeds \$10,000, or if the cost was between \$4,000 and \$10,000 and three price quotes were not obtained, the entire cost shall be ineligible for payment from the Liquid Fuels Tax Fund unless it can be shown to the satisfaction of the Secretary that it was reasonably believed that the cost of the year's requirements of that item or group of like items would not exceed \$10,000 or be between \$4,000 and \$10,000 as specified in this section. NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

(e) Purchases through Department of General Services or intergovernmental agencies.

Advertising, bidding, and bonding requirements do not apply to “piggy-back” purchases from suppliers under contract with the Department of General Services or Intergovernmental agencies. Compliance by an intergovernmental agency with the advertising and bonding requirements in this chapter shall be sufficient to relieve a municipality cooperating in the same purchasing agreement from compliance with the advertising, bidding, and bonding requirements.

(f) Purchases of gasoline subject to Federal Energy Administration regulations.

Advertising, bidding, and bonding requirements do not apply to gasoline purchases which Federal Energy Administration Regulations require be made from specified suppliers if a municipality utilizes 84,000 gallons or more a year.

Authority

The provisions of this § 449.7 issued under The Administrative Code of 1929 (71 P.S. §§ 511.3, 512 and 513); and act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10); amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.7 amended through August 20, 1982, effective August 21, 1982, 12Pa.B. 2802; amended May 16, 2003, effective May 17, 2003, Pa.B. 2378. Immediately preceding text appears at serial pages (240961) to (240962).

Cross References

This section cited in 67 Pa. Code § 449.8 (relating to equipment rental).

§ 449.8 Equipment rental.

(a) General rule.

A contract in excess of \$10,000 for the rental of equipment shall be advertised, bid and bonded and a contract between \$4,000 and \$10,000 shall be awarded only after three telephone price quotes are obtained, unless the work is performed by the municipality's own employee forces. For contracts between \$4,000 and \$10,000, in lieu of the price quotations, a memorandum shall be kept on file showing that fewer than three qualified contractors service the market area within which it is practicable to obtain quotations until a satisfactory audit of the contract is completed by the Department of the Auditor General. NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

- (1) The advertisement shall contain a reasonably complete description of the type of equipment, approximate length of time the equipment will be required and whether the equipment shall be provided with operators.
- (2) The proposal shall contain the approximate number of hours, days, and the like that the equipment will be required, as reasonably estimated by the municipality.
- (3) Annual contracts for equipment rental and labor shall be permitted.
- (4) On equipment rental contracts over \$10,000, suppliers shall provide bonds in accordance with the chart in § 449.7(c) (relating to purchase of materials and equipment). NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)
- (5) If rented equipment is subsequently purchased, any rental paid in excess of an annual rate of 25% of the value of the equipment shall be regarded as a part of the purchase price in determining if the purchase must be advertised and bid.

(b) "Local forces" defined.

"Local forces" are defined as follows:

- (1) For the local forces exception to apply to equipment rented with operators, it must be shown that more than one half of the total man-hours of work on the project will be performed by municipal employees.
- (2) Bona fide temporary employees of the municipality shall be counted as municipal employees. Employees of a contractor placed on the payroll of a municipality for the duration of a project will not be recognized as municipal employees.
- (3) To substantiate a determination that a project is a local forces job, all man-hours shall be identified on payroll records.

(c) Lease-purchase contracts of equipment.

When equipment is rented for general street and highway construction and maintenance use, rather than for a particular project, it may be desirable to enter into a lease containing a purchase option.

- (1) If the total amount of the lease-purchase agreement, including trade-in allowance, all rentals and the amount paid under the purchase option exceeds \$10,000, advertising, bidding and a performance bond are required. NOTE: Consumer Price Index Adjustment of Base Amounts are posted to the PA Bulletin annually. (<http://www.pabulletin.com>)

(2) The only Liquid Fuels Tax funds which may be used for a lease-purchase agreement is the 20% portion reserved for the purchase of equipment.

(3) Equipment purchased with Liquid Fuels Tax funds shall be used primarily for street and highway use.

Authority

The provisions of this § 449.8 issued under The Administrative Code of 1929 (71 P.S. § 511.3, 512 and 513); and act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10); amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.8 amended through August 20, 1982, effective August 21, 1982, 12 Pa.B. 2802; amended May 16, 2003, effective May 17, 2003, 33 Pa.B. 2378. Immediately preceding text appears at serial pages (240962) to (240963).

§ 449.9 Construction and maintenance contracts.

(a) Cost comparison.

Before deciding to pave a road or street by purchasing materials and renting equipment with operators, the municipality should compare the cost of having the job done by contract.

(b) Advertisement.

The advertisement for a construction or maintenance contract shall contain a reasonably complete description of the project, including the scope of the project and the type of work involved, as well as bond requirements as indicated in subsection (f).

(c) Proposal.

The proposal shall contain the approximate number of tons or square yards of materials or the metric equivalents, required, as reasonably estimated by the municipality. The bidder shall insert:

- (1) The unit price for each item.
- (2) The total price for each item (quantity X unit price).
- (3) The total price for any group of items, as to which the proposal requires a total or subtotal.

(d) Lump sum bids.

In special cases, the Director of the Bureau of Municipal Services of the Department may approve lump sum bids in lieu of the procedure in subsection (c).

NOTE: The Bureau of Municipal Services was absorbed into the PennDOT Office of Planning. In special cases, the lump sum bids may be approved by the PennDOT Office of Planning.

(e) Prevailing wage requirements.

If the estimated cost of a construction contract, as defined in the memorandum of understanding between the Department, the Department of labor and Industry, and the former Department of Justice, exceeds \$100,000, the municipality shall:

- (1) Determine the prevailing minimum wage rates from the Prevailing Minimum Wage Division of the Department of Labor and Industry.

- (2) Indicate in the advertisement issued for the purpose of securing bids for the contract that prevailing wage rates shall be paid on the project.
- (3) Specify the prevailing minimum wage rates in the bid proposals for the contract.

(f) Bonds.

Construction and maintenance contractors are required to provide bonds in accordance with the following chart:

BOND REQUIREMENTS FOR CONSTRUCTION AND MAINTENANCE					
	First, Second, & 2A-Class Cities	Third Class Cities	Boroughs	First Class Townships	Second Class Townships
Bid Bond	*	Requirement and reasonable amount discretionary with council. (53 P.S. § 36901(f))	Discretionary with council, in an amount determined by council. (53 P.S. § 46402(b)(1))	Not required	Not required
Performance Bond over \$10,000	*	Bond or irrevocable letter of credit, in amount sufficient to council, furnished within 20 days, but not less than 10 days, of award as specified by council. (53 P.S. § 36901(g))	At council's discretion. If required, not less than 10% or greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by Council. (53 P.S. § 46402(c))	Not less than 10% nor greater than 100%, furnished within 20 days, but not less than 10 days, of award as specified by township commissioners. (53 P.S. § 46402(c))	Not less than 10% or greater than 100%, as specified by township supervisors, furnished within 20 days of award. (53 P.S. § 68102(g))
Payment Bond over \$1,500	*	50% to 100% at discretion of city. (53 P.S. § 36907)	50% to 100% at discretion of the borough. (53 P.S. § 46406)	50% to 100% at discretion of township. (53 P.S. § 56804)	Not required unless covered under Public Works Contractors' Bond Law of 1967. (53 P.S. § 68105)

* See appropriate municipal code or charter.

NOTE: The Public Works Contractors' Bond Law of 1967 may supersede requirements of municipal codes. Please consult the appropriate statutes or consult with the appropriate municipal solicitor, or both, regarding bonding requirements for a particular contract or project.

(g) Payment of engineering fees.

Reasonable engineering fees in connection with any contract made by a municipality under this chapter shall be payable out of the Liquid Fuels Tax fund of the municipality. Any such fees in excess of 10% of the total contract price shall be documented and justified to the satisfaction of the Department.

Authority

The provisions of this § 449.9 issued under The Administrative Code of 1929 (71 P.S. §§ 511.3, 512 and 513); and act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10); amended under the Vehicle Code, 75 Pa.C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.9 amended through November 19, 1982, effective November 20, 1982, 12 Pa.B. 3984; amended May 16, 2003, effective May 17, 2003, 33 Pa.B. 2378. Immediately preceding text appears at serial pages (240964) to (240965).

§ 449.10 Investment of funds, use of loan, or bond issue proceeds.

(a) Liquid fuels tax account.

All monies in the liquid fuels tax account may be invested so as to earn interest until expended and may be combined with other municipal funds for investment.

(b) Loans or bonds.

All proceeds of any loan or bond issue made for road or street improvement purposes must be used exclusively for road or street improvement purposes. A single loan or bond issue shall not be made for both a road or street improvement purpose and a nonrelated purpose.

Source

The provisions of this § 449.10 amended April 13, 1979, effective April 14, 1979. 9 Pa. B. 1308.

§ 449.11 Twenty percent funds.

(a) Accumulation of 20% funds.

A municipality may accumulate its road machinery and road equipment funds — 20% funds— over a period of years subject to the following limitations:

- (1) The full amount of 20% funds to be carried over from one year to the next shall be on deposit in the Liquid Fuels Tax account at the end of the calendar year, and shall be carried as part of the maintenance fund balance as reported on Form MS-965.
- (2) If 20% funds are accumulated in an amount in excess of 100% of the most recent Liquid Fuels Tax allotment, the municipal budget shall indicate the kind of road machinery or road equipment which the municipality plans to purchase.

(b) Payment of loans with 20% funds.

Loans or bond issues made to finance the purchase of road machinery and road equipment may be repaid from 20% funds.

(c) Reimbursement of general fund expenditures with 20% funds.

Expenditures from the general fund made to finance the purchase of road machinery and road equipment purchased on or after August 6, 1971, may be reimbursed from 20% funds in the same or subsequent years.

Authority

The provisions of this § 449.11 amended under the Vehicle Code, 75 Pa. C.S. §§ 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P.L. (1955) 1944, No. 655) (72 P.S. §§ 2615.1—2615.10).

Source

The provisions of this § 449.11 amended May 16, 2003, effective May 17, 2003, 33 Pa.B. 2378. Immediately preceding text appears at serial pages (240965) to (240966). Add Section 449.12 and 449.13 as provided.

§ 449.12 Annual qualification.

(a) Requirements. To qualify for its annual Liquid Fuels Tax allocation, each municipality shall submit to the Department the following documents and information:

A municipality may accumulate its road machinery and road equipment funds — 20% funds— over a period of years subject to the following limitations:

- (1) Evidence that its treasurer is bonded in accordance with law, or that its treasurer is a bank requiring no bond. This information is due on or before January 31 each year and shall be submitted on Department Form MS-965
- (2) A report indicating the manner in which its liquid fuels tax allocation was expended in the preceding year, the manner in which it plans to expend its Liquid Fuels Tax allocation in the current year and the amount of funds for road and street purposes to be raised by the levying of taxes in the current year. This information shall be due on or before January 31 each year on Department Form MS-965.
- (3) A report of all elected and appointed officials, indicating the official and address to which Liquid Fuels Tax allocations and correspondence shall be forwarded. This information is due on or before January 31 each year and shall be submitted on the appropriate Department of Community and Economic Development forms:
 - (i) Form DCED-CLGS-19-2 for Cities.
 - (ii) Form DCED-CLGS-19-3 for Boroughs.
 - (iii) Form DCED-CLGS-19-4 for First Class Townships.
 - (iv) Form DCED-CLGS-19-5 for Second Class Townships.
- (4) A copy of Form DCED-CLGS-69 (survey of financial condition). This completed form must be received by the Department of Community and Economic Development by March 15 each year.

- (b) **Waiver. The Secretary, for good cause, may waive any of these requirements as prerequisites to qualification for the annual Liquid Fuels Tax allocation.**

Authority

The provisions of this § 449.12 amended under the Vehicle Code, 75 Pa.C.S. § § 6103 and 9511; and sections 1—10 of the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § § 2615.1—2615.10).

Source

The provisions of this § 449.12 amended through January 20, 1984, effective January 21, 1984, 14 Pa.B. 232; amended May 16, 2003, effective May 17, 2003, 33 Pa.B. 2378. Immediately preceding text appears at serial page (240966).

§ 449.13. Annual maintenance payments under section 9511 of the Vehicle Code.

Annual maintenance payments under 75 Pa.C.S. § 9511 (relating to allocation of proceeds) shall be deposited into the municipality's liquid fuels tax account, and may be used on any streets and highways in the municipality in the same manner and subject to the same restrictions as liquid fuels tax funds paid under section 2615 of the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § 2615).

Authority

The provisions of this § 449.13 issued under the act of June 1, 1956 (P. L. (1955) 1944, No. 655) (72 P. S. § § 2615.1—2615.10); the Vehicle Code, 75 Pa.C.S. § § 6103 and 9511.

Source

The provisions of this § 449.13 adopted March 2, 1984, effective March 3, 1984, 14 Pa.B. 732.

**APPENDIX E – SECTION 9511 OF VEHICLE CODE, 75
PA. C.S. § 9511**

**ADDED BY ACT NO. 1981-35 AND AMENDED BY ACT 1983-32,
1984-148, 1992-31, 1993-58, 1994-3 AND 2006-70 AND
AMENDED BY ACT 89 OF 2013**

§ 9511. Allocation of Proceeds

- (a) Deposit in Motor License Fund.** –Unless otherwise provided in this title, all taxes, interest and penalties imposed by this chapter shall be deposited in the Motor License Fund.
- (b) State Highway Transfer Restoration Restricted Account and local bridges.** – The amount of the proceeds deposited in the Motor License Fund pursuant to this chapter which is attributable to three mills of the tax imposed under section 9502(a) (relating to imposition of tax) shall be deposited as follows:
- (i) For fiscal year 2013-2014 through fiscal year 2016-2017, as follows:
 - (A) Twenty-seven million dollars shall be deposited in the State Highway Transfer Restoration Restricted Account within the Motor License Fund. The funds deposited in the State Highway Transfer Restoration Restricted Account shall be appropriated annually for expenditure as provided under subsection (g).
 - (B) All funds not deposited in accordance with clause (A) shall be deposited in the Highway Bridge Improvement Restricted Account within the Motor License Fund for local bridges, notwithstanding if the project is administered by a county, municipality or the department.
 - (ii) For fiscal year 2017-2018 and each fiscal year thereafter, as follows:
 - (A) One and one-half mill shall be deposited in the State Highway Transfer Restoration Restricted Account within the Motor License Fund, which account is hereby created. The funds deposited in the State Highway Transfer Restoration Restricted Account are hereby annually appropriated out of the account upon authorization by the Governor for expenditure as provided in subsection (g).
 - (B) One and one-half mill shall be deposited in the Highway Bridge Improvement Restricted Account within the Motor License Fund for local bridges, notwithstanding if the project is administered by a county, municipality or the department.
- (c) Basic allocation to municipalities.** – An amount equal to 20% of the proceeds deposited in the Motor License Fund pursuant to the "oil company franchise tax for highway maintenance and construction" which is attributable to 35 mills of the tax imposed under section 9502(a) is hereby appropriated out of the Motor License Fund to municipalities of this Commonwealth on the basis of and subject to the provisions of the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law.

(d) Additional allocation to municipalities. – In addition, an amount is hereby appropriated out of the Motor License Fund to municipalities of this Commonwealth on the basis of and subject to the provisions of the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law, equal to the amount that would be necessary to increase the portion of the liquid fuels and fuel use taxes distributed by such act to 20% of that which is deposited in the Motor License Fund from all liquid fuels and fuel use taxes.

(e) Allocation to cities of the first class. – In addition, an amount is hereby appropriated annually out of the Motor License Fund to cities of the first class equal to the difference between the increased amounts allocated to cities of the first class resulting from subsections (c) and (d) and 2% of oil company wholesale revenues from sales of gasoline delivered to retail outlets in cities of the first class, as determined by the Pennsylvania Secretary of Revenue in developing the official revenue estimate for the "oil company franchise tax for highway maintenance and construction." Such funds shall be used exclusively for maintenance, construction or reconstruction of highways and bridges within cities of the first class.

(e.1) Allocation to municipalities for traffic signals. – In addition, up to \$10,000,000 for fiscal year 2014-2015, up to \$25,000,000 for fiscal year 2015-2016 and up to \$40,000,000 for fiscal year 2016-2017 and each fiscal year thereafter, is appropriated out of the Motor License Fund to replace, synchronize, time, operate and maintain traffic signals within traffic corridors consistent with 74 Pa.C.S. Ch. 92 (relating to traffic signals). The funds shall be used and allocated in accordance with the following:

- (1) During fiscal year 2014-2015, up to \$10,000,000 is allocated to municipalities for upgrading traffic signals to light-emitting diode technology and for performing regional operations such as retiming, developing special event plans and monitoring traffic signals.
- (2) During fiscal year 2015-2016, up to \$25,000,000 shall be allocated to municipalities for upgrading traffic signals to light-emitting diode technology, performing regional operations such as retiming, developing special event plans and monitoring traffic signals and for maintaining and operating traffic signals.
- (3) During fiscal year 2016-2017 and each fiscal year thereafter, up to \$40,000,000 shall be allocated to municipalities for upgrading traffic signals to light-emitting diode technology, performing regional operations such as retiming, developing special event plans and monitoring traffic signals and for maintaining and operating traffic signals.
- (4) Financial assistance under this section shall be matched by municipal or private cash funding in an amount not less than 50% of the amount of the financial assistance being provided.
- (5) The department shall establish guidelines for applications and approval of applications from municipalities for the financial assistance being provided. Applicants must enter into agreements provided for under 74 Pa.C.S. Ch. 92. Priority will be given to multimunicipal improvements.

(f) Basic allocation to highway maintenance. – An amount equal to the proceeds of 23 mills of the "oil company franchise tax for highway maintenance and construction" for the fiscal year 1983-1984 shall be dedicated to the maintenance of any State highways and shall be in addition to any funds currently dedicated to the maintenance of any State highways. For fiscal year 1984-1985 and thereafter, an amount equal to the proceeds of 22 mills of the "oil company franchise tax for highway maintenance and construction" shall be dedicated to the maintenance of any State highway and shall be in addition to any funds currently dedicated to the maintenance of any State highways.

(g) Use of funds in the State Highway Transfer Restoration Restricted Account.– The funds appropriated in subsection (b) for deposit in the State Highway Transfer Restoration Restricted Account shall be used to pay for the costs of restoration of such highways as provided in Chapter 92 (relating to transfer of State highways) and annual payments to the municipalities for highway maintenance in accordance with the following:

- (1) Annual maintenance payments shall be at the rate of \$4,000 per mile for each highway or portion of highway transferred under Chapter 92, section 222 of the act of June 1, 1945 (P.L.1242, No.428), known as the State Highway Law, or any statute enacted in 1981.
- (2) Annual maintenance payments shall be paid at the same time as funds appropriated under the act of June 1, 1956 (1955 P.L.1944, No.655), referred to as the Liquid Fuels Tax Municipal Allocation Law, except that no maintenance payment shall be paid for a highway until after the year following its transfer to the municipality.
- (3) Annual maintenance payments under this subsection shall be in lieu of annual payments under the Liquid Fuels Tax Municipal Allocation Law.
- (4) Annual maintenance payments under this subsection shall be deposited into the municipality's liquid fuels tax account and may be used on any streets and highways in the municipality in the same manner and subject to the same restrictions as liquid fuels tax funds paid under the Liquid Fuels Tax Municipal Allocation Law or, in the case of a county, under section 10 of the act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act.

(h) Allocation to Pennsylvania Turnpike Commission.—An amount equal to 14% of the proceeds deposited in the Motor License Fund pursuant to the "oil company franchise tax for highway maintenance and construction" imposed under section 9502(a)(2), which amount is to be distributed under section 9502(a)(2)(vi) for toll roads designated under the act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, is hereby appropriated monthly to the Pennsylvania Turnpike Commission. The Commonwealth does hereby pledge to and agree with any person, firm or corporation acquiring any bonds to be issued by the Pennsylvania Turnpike Commission and secured in whole or in part by a pledge of the portion of the tax known as the "oil company franchise tax for highway maintenance and construction" which is imposed by section 9502(a)(2) and distributed in the manner indicated in that section, including 14% for toll roads designated under the Turnpike Organization, Extension and Toll Road Conversion Act, that the Commonwealth will not limit or alter the rights vested in the Pennsylvania Turnpike Commission to the appropriation and distribution of such tax revenues.

(i) Refund to Pennsylvania Fish and Boat Commission.—

- (1) When the tax imposed by section 9502(a)(1), (2), (3) and (4) has been paid and the fuel on which the tax has been imposed has been consumed in the operation of motorboats or water craft upon the waters of this Commonwealth, including waterways bordering this Common

wealth, the full amount of the tax shall be refunded to the Boat Fund on petition to the Board of Finance and Revenue in accordance with prescribed procedures.

- (2) In accordance with the procedures, the Pennsylvania Fish and Boat Commission shall biannually calculate the amount of liquid fuels consumed by the motorcraft and furnish the information relating to its calculations and data as required by the Board of Finance and Revenue. The Board of Finance and Revenue shall review the petition and motorboat fuel consumption calculations of the commission, determine the amount of the oil company franchise tax paid and certify to the State Treasurer to refund annually to the Boat Fund the amount so determined. The department shall be accorded the right to appear at the proceedings and make its views known.
- (3) For the fiscal years commencing July 1, 2013, July 1, 2014, July 1, 2015, July 1, 2016, and July 1, 2017, the money under paragraph (2) shall be used by the commission acting by itself or by agreement with other Federal and State agencies only for the improvement of hazardous dams impounding waters of this Commonwealth on which boating is permitted, including the development and construction of boating areas and the dredging and clearing of water areas where boats can be used. The commission shall present its plan no later than September 30 of each year through September 30, 2017, to the chairman and minority chairman of the Transportation Committee and the chairman and minority chairman of the Game and Fisheries Committee of the Senate and the chairman and minority chairman of the Transportation Committee and the chairman and minority chairman of the Game and Fisheries Committee of the House of Representatives regarding the use of the funds. For the fiscal year commencing July 1, 2018, and for each fiscal year thereafter, this money shall be used by the commission acting by itself or by agreement with other Federal and State agencies only for the improvement of the waters of this Commonwealth on which motorboats are permitted to operate and may be used for the development and construction of motorboat areas; the dredging and clearing of water areas where motorboats can be used; the placement and replacement of navigational aids; the purchase, development and maintenance of public access sites and facilities to and on waters where motorboating is permitted; the patrolling of motorboating waters; the publishing of nautical charts in those areas of this Commonwealth not covered by nautical charts published by the United States Coast and Geodetic Survey or the United States Army Corps of Engineers and the administrative expenses arising out of the activities; and other similar purposes.

(July 22, 1983, P.L.122, No.32, eff. 15 days; July 10, 1984, P.L.704, No.148, eff. imd.; Apr. 16, 1992, P.L.169, No.31, eff. 60 days; July 2, 1993, P.L.408, No.58, eff. imd.; Feb. 10, 1994, P.L.20, No.3, eff. 60 days; July 7, 2006, P.L.341, No.70, eff. 60 days; Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

2013 Amendment. Act 89 amended subsecs. (b) and (g) and added subsecs (e.1) and (i). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

1994 Amendment. Act 3 amended subsec. (h). The amendment by Act 3 is identical to the amendment by Act 58 of 1993 and therefore the text has been merged.

1993 Amendment. See section 10 of Act 58 in the appendix to this title for special provisions relating to use of Motor License Fund appropriations.

1992 Amendment. Act 31 amended subsec. (a) and added subsec. (h).

1983 Amendment. Act 32 amended and relettered former subsec. (b) to subsec. (c), relettered former subsec. (c) to subsec. (d), amended and relettered former subsec. (d) to subsec. (e) and added present subsec. (b) and subsecs. (f) and (g).

References in Text. The act of May 21, 1931 (P.L.149, No.105), known as The Liquid Fuels Tax Act, referred to in subsec. (g), was repealed by the act of April 17, 1997 (P.L.6, No.3). The subject matter is now contained in Chapter 90 of this title.

The act of September 30, 1985 (P.L.240, No.61), known as the Turnpike Organization, Extension and Toll Road Conversion Act, was repealed by the act of July 18, 2007 (P.L.169, No.44).

Cross References. Section 9511 is referred to in sections 9502, 9511.11 of this title.

APPENDIX F – (COUNTY) LIQUID FUELS TAX ACT OF 1931 and Amended by Act 89 of 2013

PENNSYLVANIA CONSOLIDATED STATUTES
TITLE 75 (VEHICLE CODE)
CHAPTER 90
SECTION 9010

Note: For a complete copy of the Chapter see Title 75.

§ 9010 Disposition and use of tax.

- (a) **Payment to Liquid Fuels Tax Fund.**—One-half cent per gallon of the tax collected under section 9004 (a) (relating to imposition of tax, exemptions and deductions) shall be paid into the Liquid Fuels Tax Fund of the State Treasury. The money paid into that fund is specifically appropriated for the purposes set forth in this chapter.
- (b) **Payment to counties.**—
- (1) The money paid into the Liquid Fuels Tax Fund, except that which is refunded, shall be paid to the respective counties of this Commonwealth on June 1 and December 1 of each year in the ratio that the average amount returned to each county during the three preceding years bears to the average amount returned to all counties during the three preceding years.
 - (2) All money received by the counties under paragraph (1) shall be deposited and maintained in a special fund designated as the County Liquid Fuels Tax Fund. No other money shall be deposited and commingled into the County Liquid Fuels Tax Fund, except in a county which does not have sufficient money in such special fund to provide for payments designated in the current annual budget.
 - (i) Payment from that special fund shall be for the following purposes:
 - (A) Construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide access by individuals with disabilities consistent with Federal and State law.
 - (B) Property damages and compensation of viewers for services in eminent domain proceedings involving roads, highways and bridges.
 - (C) Construction, reconstruction, operation and maintenance of publicly owned ferryboat operations.
 - (D) Interest and principal payments on road, bridge or publicly owned ferryboat operation bonds or sinking fund charges for such bonds becoming due within the current calendar year.

- (E) Acquisition, maintenance, repair and operation of traffic signs and traffic signals.
 - (F) Erection and maintenance of stop and go signal lights, blinkers and other like traffic control devices.
 - (G) Indirect costs, including benefit costs, overhead and other administrative charges for those county employees directly engaged in eligible projects. Expenditures under this clause may not exceed 10% of the yearly allocation to the county.
 - (H) Individual vehicle liability insurance for equipment purchased under the fund. Expenditures under this clause may not exceed 10% of the yearly allocation to the county.
- (ii) The county for the purpose of payments under subparagraph (i) may borrow and place in the special fund money not in excess of the liquid fuels tax funds to be received during the current calendar year. Loans shall be repaid from the special fund before the expiration of the current calendar year and not thereafter. Money so received and deposited shall be used only for the following purposes:
- (A) Construction, reconstruction, maintenance and repair of roads, highways, bridges and curb ramps from a road or highway to provide access by individuals with disabilities consistent with Federal and State law.
 - (B) Payment of property damage and compensation of viewers for services in eminent domain proceedings involving roads, highways and bridges occasioned by the relocation or construction of highways and bridges.
 - (C) Construction, reconstruction, operation and maintenance of publicly owned ferryboat operations.
 - (D) Payment of Interest and sinking fund charges on bonds issued or used for highways and bridge purposes and publicly owned ferryboat operations.
 - (E) Acquisition, maintenance, repair and operation of traffic signs and traffic signals.
- (iii) No expenditures from the special fund shall be made by the county commissioners for new construction on roads, bridges, curb ramps or publicly owned ferryboat operations without the approval of the plans for construction by the department.
- (iv) The county commissioners shall not allocate money from the special fund to any political subdivision within the county until the application and the contracts or plans for the proposed expenditures have been made on forms prescribed by the department.

- (v) The county commissioners of each county shall make to the department, by January 15 for the period ending December 31, on a form prescribed by the department a report showing the receipts and expenditures of the money received by the county from the Commonwealth under this section. Copies of the report shall be transmitted to the department and to the Department of the Auditor General for audit.
- (vi) Upon the failure of the county commissioners to file the report or to make any payments, allocations or expenditures in compliance with this section, the department shall withhold further payments to the county out of the Liquid Fuels Tax Fund until the delinquent report is filed, the money is allocated or the expenditures for the prior 12 months are approved by the department.

(c) Allocation of money.—The county commissioners may allocate and apportion money from the County Liquid Fuels Tax Fund to the political subdivisions within the county in the ratio as provided in this subsection. When the unencumbered balance in the County Liquid Fuels Tax Fund is greater than the receipts for the 12 months immediately preceding the date of either of the reports, the county commissioners shall notify the political subdivisions to make application within 90 days for participation in the redistribution of the unencumbered balance. Redistribution shall be effected within 120 days of the date of either of the reports. The county commissioners may distribute the unencumbered balance in excess of 50% of the receipts for the previous 12 months to the political subdivisions making application in the following manner:

- (1) Fifty percent of the money shall be allocated and apportioned among the political subdivisions within the county in the ratio which the total mileage of all roads and streets maintained by each political subdivision making application bears to the total mileage of all the roads and streets maintained by all political subdivisions making application in the county as of January 1 of the year in which an allocation is made.
- (2) The remaining 50% of the money shall be allocated and apportioned among the same political subdivisions on a population basis in the ratio which the population in each political subdivision making an application bears to the total population of all political subdivisions making application.
- (3) In the case of an emergency and upon approval of the Department of Transportation, the county commissioners may enter into contracts and obligations for the expenditure of the estimated liquid fuels tax receipts for a period not exceeding two years and receive a credit for expenditures against subsequent receipts. No county may carryover any credit balance against future fuel tax receipts from year to year.

(d) Copies of laws.—The Department of Transportation shall annually issue to the county commissioners and to the corporate authorities of the political subdivisions in the counties copies of the laws with special reference to pertinent provisions and regulations relating to the receipts and expenditures of any funds authorized to be apportioned, allocated or expended.

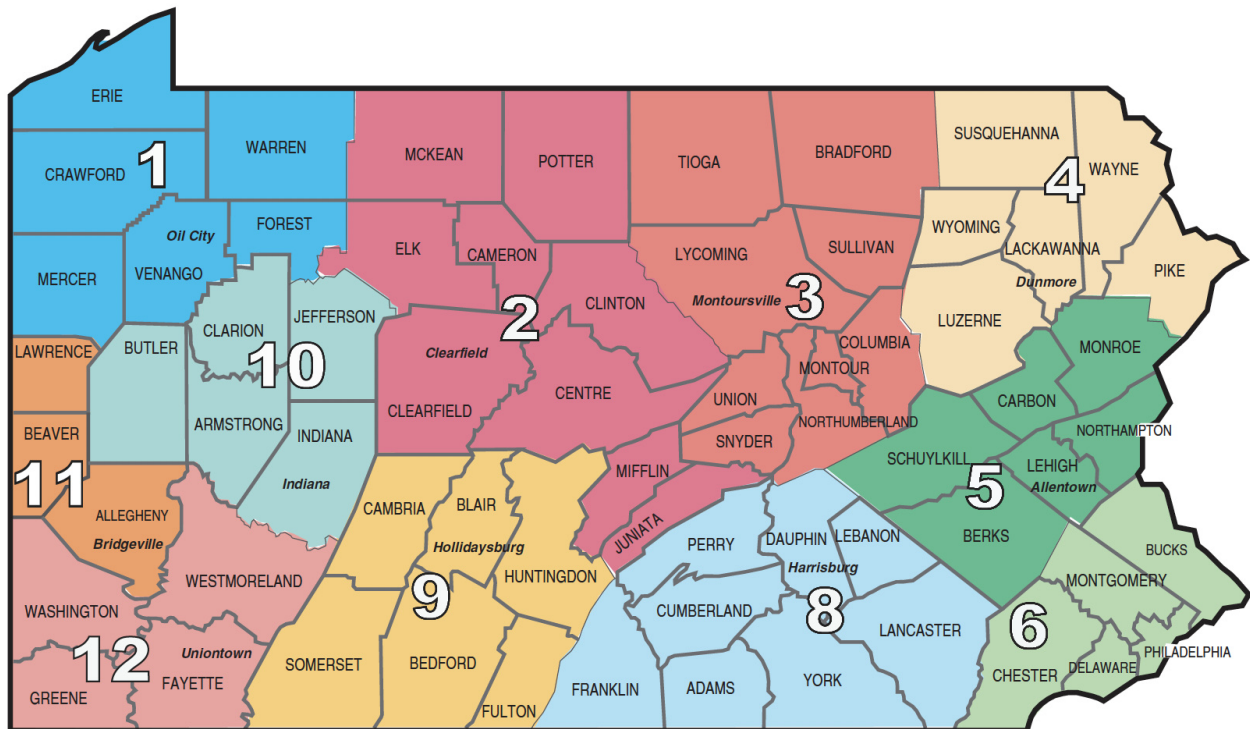
(e) Appropriation.—

- (1) Notwithstanding the provisions of this subsection and notwithstanding the provisions of section 3 of the act of June 1, 1956 (1955 P.L. 1944, No. 655) referred to as the Liquid Fuels Tax Municipal Allocation Law, the entire revenues from 1¢ of the tax imposed by this chapter are hereby appropriated to the Department of Transportation.
- (2) The following apply insofar as consistent with section 9102 (relating to distribution of State highway maintenance funds):
 - (i) Except as provided in subparagraph (ii), the department shall use the revenues appropriated to it under this subsection for the maintenance and resurfacing of secondary roads.
 - (ii) The revenues shall be apportioned by the department for expenditure in the several counties of this Commonwealth in the ratio that the total mileage of State highways in any county bears to the total mileage of State highways in this Commonwealth.
- (3) The remaining tax collected under section 9004(a), the tax of 1½ ¢ a gallon imposed and assessed on liquid fuels used or sold and delivered for use as a fuel in propeller-driven aircraft or aircraft engines, the tax of 1½ ¢ a gallon on liquid fuels used or sold and delivered for use as a fuel in jet or turbojet-propelled aircraft or aircraft engines in lieu of other taxes, all penalties and interests and all interest earned on deposits of the Liquid Fuels Tax Fund shall be paid into the Motor License Fund. This money is specifically appropriated for the same purposes for which the money in the Motor License Fund is appropriated by law.

APPENDIX G -- MUNICIPAL SERVICES DISTRICT OFFICES

DISTRICT	ADDRESS	TELEPHONE
1-0	255 Elm Street Oil City, Pa. 16301 Counties: Crawford, Erie, Forest, Mercer, Venango, Warren	(814) 678-7042
2-0	1924-30 Daisy Street P.O. Box 342 Clearfield, Pa. 16830-0342 Counties: Cameron, Centre, Clearfield, Clinton, Elk, Juniata, McKean, Mifflin, Potter	(814) 765-0408
3-0	715 Jordan Avenue P.O. Box 218 Montoursville, Pa. 17754-0218 Counties: Bradford, Columbia, Lycoming, Montour, Northumberland, Snyder, Sullivan, Tioga, Union	(570) 368-4239
4-0	55 Keystone Industrial Park Dunmore, Pa. 18512 Counties: Lackawanna, Luzerne, Pike, Susquehanna, Wayne, Wyoming	(570) 963-4117
5-0	1002 Hamilton Street Allentown, Pa. 18101-1013 Counties: Berks, Carbon, Lehigh, Monroe, Northampton, Schuylkill	(610) 871-4151
6-0	7000 Geerdes Blvd King of Prussia, Pa. 19406-1525 Counties: Bucks, Chester, Delaware, Montgomery, Philadelphia	(610) 205-6541
8-0	2140 Herr Street Harrisburg, Pa. 17103-1699 Counties: Adams, Cumberland, Dauphin, Franklin, Lancaster, Lebanon, Perry, York	(717) 787-4839

9-0	1620 North Juniata Street Hollidaysburg, Pa. 16648 Counties: Bedford, Blair, Cambria, Fulton, Huntingdon, Somerset	(814) 696-7221
10-0	2550 Oakland Avenue Indiana, Pa. 15701-0429 Counties: Armstrong, Butler, Clarion, Indiana, Jefferson	(724) 357-7986
11-0	45 Thomas Run Road Bridgeville, Pa. 15017 Counties: Allegheny, Beaver, Lawrence	(412) 429-4809
12-0	825 North Gallatin Avenue Uniontown, Pa. 15401-2105 Counties: Fayette, Greene, Washington, Westmoreland	(724) 439-7270



APPENDIX H -- NEW MILEAGE ADDITIONS AND MUNICIPAL BOUNDARY CHANGES

TOWNSHIPS OF THE FIRST CLASS

1. A copy of the ordinance, resolution or other official action showing that the municipality has adopted the street as a public highway, and a copy of a map showing the street location. (A Deed of Dedication must be on file with the municipality.)
2. In townships of the first class, the street must have a minimum right-of-way of at least 33 feet, with the exception of built-up areas where the right-of-way can be reduced to 24 feet.
3. The street must have a minimum cartway of 16 feet, paved or unpaved.
4. The street must be capable of being driven safely at 15 miles per hour.
5. A dead-end street must be at least 250 feet in length measured from the last intersection and provided with a cul-de-sac having a minimum radius of 40 feet.
6. The street must be accessible from an existing public street or roadway.

NOTE: In following these guidelines and submitting the necessary documents to the District Municipal Services Office before September 1 of each year, PennDOT will be able to process added mileages quickly.

TOWNSHIPS OF THE SECOND CLASS

1. A copy of the ordinance or resolution passed by the township to adopt the road as a public highway, and a copy of the plot plan showing the road location. (A Deed of Dedication must be on file with the municipality).
2. Proof that the ordinance or resolution has been recorded in the county courthouse (Clerk of Courts or appropriate county recording office) showing the court seal, page, and document number where recorded.
3. The road must have a minimum right-of-way of 33 feet.
4. The road must have a minimum cartway of 16 feet, paved or unpaved. (Necessary shoulder widths are excluded).
5. The road must be capable of being driven safely at 15 miles per hour.
6. All dead-end roads must be at least 250 feet in length measured from the last intersection and be provided with a cul-de-sac having a radius of at least 40 feet.
7. The roadway must be accessible from an existing public street or roadway.

NOTE: In following these guidelines and submitting the necessary documents to the District Municipal Services Office before September 1 of each year, PennDOT will be able to process added mileages quickly.

CITIES, BOROUGHS AND TOWNS

1. A copy of the ordinance showing that the municipality has adopted the street as a public highway, and a copy of the borough or city map showing the street location. (A Deed of Dedication must be on file with the municipality.)
2. A copy of the ordinance must be on file in the municipality's ordinance book.
3. The street must have a minimum right-of-way of at least 16 feet.
4. The street must have a minimum cartway of at least 16 feet, paved or unpaved.
5. The street must be capable of being driven safely at 15 miles per hour.
6. A dead-end street must be at least 250 feet in length measured from the last intersection and provided with a cul-de-sac having a radius of at least 40 feet.
7. The street must be accessible from an existing public street or roadway.

NOTE: In following these guidelines and submitting the necessary documents to the Municipal Services District Office before September 1 of each year, PennDOT will be able to process added mileages quickly.

B. MUNICIPAL BOUNDARY CHANGES

The Department of Transportation will recognize only the following types of changes:

1. that are the result of municipal consolidation;
2. that are the result of compliance with the procedures outlined in the applicable municipal codes (i.e., Second Class Township Code, Borough Code, etc.); or
3. established by court order.

PennDOT will continue verification of boundary lines as technology advances and allows boundary changes. Agreements, between municipalities will not be recognized by the Department.

APPENDIX I -- TURNBACK PROGRAM

The Turnback Program is a cooperative and voluntary venture between the Pennsylvania Department of Transportation (PennDOT) and municipal governments.

The objective of the Turnback Program is to transfer the ownership of state-owned roads that are better suited to local traffic purposes.

Roads that are candidates for transfer are those that are functionally local, have low average daily traffic, or would benefit the municipality both socially and economically.

PennDOT either rehabilitates the roadway before the transfer takes place or provides the participating municipality funding to rehabilitate the roadway to improve its quality and service life.

Before a roadway can be officially transferred to a municipality, local officials must adopt a resolution authorizing the acceptance of a highway transfer and must enter into a highway transfer agreement with PennDOT.

Municipalities receive an annual payment in perpetuity for the maintenance of the roadway. Act 70 of 2006 authorized an increase in the annual maintenance payment rate for all Turnback projects from \$2,500 per mile to \$4,000 per mile of roadway – the first rate increase in the history of the program. The payments are released on March 1 beginning two years after the year of transfer. For example, if a Highway Transfer Agreement is completed between January 1, 2014 and December 31, 2014, the first annual maintenance payment will be released on March 1, 2016.

PennDOT Publication 310, Policy & Procedures For The Administration Of The Transfer Of State Highway Program (Road Turnback Program), establishes the policy and procedural guidelines for the transfer of functionally-local state highways to municipalities. Please consult the publication for additional details concerning the Turnback Program. For more information on the Turnback Program contact the local District Turnback Coordinator.

If you are interested in the Turnback of a roadway or bridge in your municipality, contact your local District Turnback Coordinator.

APPENDIX J – Section 193.1 The Public Works Contractors' Bond Law of 1967

TITLE 8. BONDS AND RECOGNIZANCES

CHAPTER 13. PUBLIC WORKS CONTRACTORS' BONDS

8 P.S. § 193.1 (2008)

NOTICE: This section repealed in part by § 6(b) of Act 1998-57, insofar as it related to Commonwealth agencies.

This section is repealed in part by § 3 of Act 2004-1, approved January 12, 2004, effective immediately. See 35 P.S. 1711.

§ 193.1. Financial security required; sureties; filing

- (a) Before any contract exceeding ten thousand dollars (\$ 10,000) for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including highway work, of any contracting body is awarded to any prime contractor, such contractor shall furnish to the contracting body the following financial security, which shall become binding upon the awarding of said contract to such contractor:
 - (1) Any financial security, acceptable to and approved by the contracting body, including, but not limited to, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions, equal to one hundred percent of the contract amount, conditioned upon the faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. Such financial security shall be solely for the protection of the contracting body which awarded the contract.
 - (2) Any financial security, acceptable to and approved by the contracting body, including, but not limited to, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions, equal to one hundred percent of the contract amount. Such financial security shall be solely for the protection of claimants supplying labor or materials to the prime contractor to whom the contract was awarded, or to any of his subcontractors, in the prosecution of the work provided for in such contract, and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the work. "Labor or materials" shall include public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.
- (b) Any bond or other financial security under the provisions of this act shall be executed by one or more surety companies or Federal or Commonwealth chartered lending institutions, chosen by the party posting the financial security and acceptable to the contracting body, legally authorized to do business in the Commonwealth of Pennsylvania.

- (c) A duplicate copy of each financial security, including bonds, shall be filed in the office of the contracting body which awarded the contract for which such bonds or financial security were given.
- (d) For purposes of this section, the phrase "contracting body" shall mean any county, school district, intermediate unit, area vocational-technical school, city, borough, incorporated town, township, home-rule municipality and any authority formed under the act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipality Authorities Act of 1945."
- (e) For the contracting body as defined in subsection (d), the provisions of this section supersede the provisions of section 3 of this act.
- (f) In the case of contracts of ten thousand dollars (\$ 10,000) or less, nothing in this section shall be construed as preventing a contracting body, prior to awarding a contract for the construction, reconstruction, alteration or repair of any public building or other public work or public improvement, including highway work, from requiring a prime contractor to furnish financial security in accordance with subsection (a).

HISTORY: Act 1990-171 (S.B. 733), § 1, approved Dec. 17, 1990, eff. in 60 days; Act 2000-131 (H.B. 1164), § 1, approved Dec. 20, 2000, eff. in 60 days.