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**Delaware River Port Authority
Problems and Proposed Solutions**

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Background

- The Delaware River Port Authority (“DRPA”) was created in 1931 by an interstate compact between the Commonwealth of Pennsylvania and the State of New Jersey.
- The purpose of the DRPA is to develop and maintain bridges and port facilities between the two states.^[1]
- The DRPA is governed by an interstate compact last amended in 1992. ^[2]
- The most recent amendment authorizes the DRPA to engage in economic development. Economic development projects can not be authorized unless included in the master plan or an amendment to the plan. ^[3]

[1] 36 P.S. § 3503 and N.J. Stat. Ann., § 32:3-1 to 32:3-18.

[2] Delaware River Port Authority Interstate Compact, Article I.

[3] Id at Article I, (Subsection n): Article XII, (Subsection 7).

DRPA Background and Board

- The DRPA is governed by a board of 16 commissioners, 8 from each state. New Jersey Commissioners are appointed by the Governor with the advice and consent of the State Senate for a term of 5 years.^[4]
- Pennsylvania's delegation includes 2 ex officio members, the State Treasurer and the Auditor General, and 6 members appointed by the Governor, without Senate confirmation, for a term of 5 years. ^[5] (Pennsylvania's appointed commissioners can be removed by the Governor).^[6]

[4] Delaware River Port Authority Interstate Compact, Article I.

[5] Id.

[6] Pievsky v. Ridge, 98 F.3d 730 (3rd Circ. 1996).

DRPA Background

- The New Jersey legislature granted its Governor the right to veto actions of the New Jersey commissioners as provided in the interstate compact. [\[7\]](#)
- Because the DRPA is an interstate agency, Pennsylvania's Sunshine, Right to Know, and Ethics Acts are not applicable. The DRPA is instead governed generally by its own by-laws and the compact. [\[8\]](#)

[\[7\]](#) N.J. Stat. Ann., § 32:3-4c.

[\[8\]](#) See DRPA v. State Ethics Commission, 137 Pa. Commonwealth 170 (1991).

DRPA Timeline of Recent Events

- In July of 2010 press reports revealed that the DRPA's Chief Safety Officer ("CSO") allowed his daughter to use a DRPA free EZ Pass to commute to school in Pennsylvania.
- The CSO was paid a salary of \$180,000 a year, plus a \$9,000 a year car allowance, plus eligible to receive up to \$6,900 in unused sick leave payments and was granted approval by DRPA staff for outside employment as an attorney in a private firm.

Timeline

- On July 23, 2010, Treasurer McCord wrote a letter to the DRPA Chief Executive Officer seeking answers to 16 specific questions including:
 - a listing of all Authority contracts and economic development projects undertaken since 2000;
 - information about the Authority’s conflict of interest/ethics policies;
 - its hiring process and employment benefits packages; and
 - all management studies/audits that have been completed since 2000.
- On August 6, 2010 the DRPA’s CEO replied to Treasurer McCord’s July 23rd letter and provided the requested documents for analysis.

Timeline

- The DRPA Board of Commissioners met on August 18th and again at a special meeting on August 25th, 2010 to consider reforms offered by Commissioners.
- Resolutions were adopted that enacted the following reforms:
 - Halting all economic development projects;
 - Requiring bids for nearly all new contracts;
 - Ending the practice of state delegations caucusing before the public meetings;
 - Eliminating two executive-level positions;
 - Agreed to conduct an independent, comprehensive audit of the Authority and an independent investigation into the “true up” agreement between the Agency’s insurance brokers; and
 - Imposing a ban on DRPA Commissioners and employees from working for firms doing business with the Authority for a period of one-year after they leave the DRPA.

Timeline

- On September 2, 2010 New Jersey Governor Chris Christie vetoed two resolutions adopted at the August 18th and 25th Board meetings and announced his support for the reappointment of the CEO.
- On September 16, 2010 Governor Christie vetoed a third resolution adopted at the DRPA's September 15th Board meeting.
- The three resolutions vetoed by Governor Christie would:
 - Require an independent investigation of the “True Up” Agreement.
 - Establish a policy prohibiting officers and employees from performing political activities on DRPA time.
 - Establish post-employment restrictions for commissioners and employees.

Employee Pay and Perks

- Top employees of the DRPA are paid well. For example:
 - Chief Executive Officer is paid \$219,000 a year plus a \$16,500 car allowance and eligible to receive \$8,400 in unused sick leave.
 - Chief Safety Officer was paid \$180,000 plus a \$9,000 a year car allowance and eligible to receive \$6,900 in unused sick leave.
 - Board Secretary was paid \$123,000 per year, plus a \$9,000 car allowance and eligible to receive \$4,700 in unused sick leave.
- A total of 11 executive-level employees had their pay supplemented by a car allowance of at least \$9,000 a year for each employee – this perk was eliminated in July of 2010.
- 100 free trips or work-related access across the DRPA’s bridges was provided as a benefit to DRPA employees and Commissioners. This perk was ended for Commissioners and new hires in June of 2008.

Conflicts of Interest - Problem

- Some commissioners or their spouses have financial interests in entities doing business with DRPA and did not recuse themselves from contract or invoice approvals.
- The DRPA had no clear conflict of interest policy: members of the board can and have voted on contracts or invoice payment to firms of which they and/or their family members were employed.
- The DRPA has no policy against post service employment unlike, for example the Pennsylvania PUC and Gaming Control Board, or the Pennsylvania Ethics Act.
- The DRPA has no policy governing the award of grants.

Reforms Passed By Board

- On August 18th the DRPA Board passed resolutions to:
 - Require commissioners to file disclosure forms required by their states.
 - Prohibit commissioners, officers, and employees from soliciting or accepting any gifts of value.
 - Establishing a policy prohibiting undue influence by commissioners, officers, and employees.
 - Establishing a policy requiring commissioners, officers and employees to avoid the appearance of undue influence.
 - Establishing a post-employment restrictions policy (vetoed by Governor Christie).

McCord's Proposal

- Prohibit any Commissioner, executive-level management employee, or immediate family member from having a financial interest in any contractor, vendor, or grant recipient doing business with the Authority. The prohibition would last for (1) year after the Commissioner, employee, or family member's status with the Authority terminated. (Adopted, waiting approval by Governor Christie)
- Prohibit any Commissioner, executive-level management employee, or immediate family member from being employed by any contractor, vendor, or grant recipient doing business with the Authority. The prohibition would last for (2) years after the Commissioner, employee or family member's status with the Authority has terminated. (Pending before the Board).
- Prohibit any Commissioner and executive-level management employees from requesting or recommending to any contractor, vendor, or grant recipient doing business with the Authority the hiring or employment of another person. (Adopted).

Insurance Brokers “True Up” Agreement

- “True Up” agreement is an informal “commission sharing policy” in which the DRPA uses two insurance brokers, one from each state, to divide the business of providing liability insurance services.
- The brokers split the total commissions collected - no matter who does the work.
- This Agreement was instituted by a former DRPA chairman and was never disclosed to the DRPA Board of Commissioners.
- In 2009, the Graham Co. in Philadelphia paid \$64,166 to Willis, Inc. in New Jersey to "true up" the difference between the commissions collected by Graham (\$620,625) and the commissions collected by Willis (\$492,294).

“True Up” Reform

- On August 25th, the DRPA Board adopted Treasurer McCord’s resolution requiring an outside independent investigation into the legality of the “True-Up” Agreement.
- This resolution was vetoed by Governor Christie on September 2, 2010.

McCord Proposal

- Advocates the hiring of a former federal prosecutor to conduct an independent investigation into the legality of the “True-Up” provisions and provide recommendations for further actions.

Political Influence on Staff and Hiring Decisions

- The DRPA’s 2010 Management Audit concluded that the influence of external and internal politics was having a “negative effect” on DRPA operations.^[9]
- The DRPA’s 2010 Management Audit also concluded that the Authority created two highly paid political patronage positions (Assistant to the Chairman and the Assistant to the Vice-Chairman) that had no useful function and interfered with the efficient operations of the Authority. ^[10]

[9] DRPA Management Audit Final Report, TransTech Management - July 2010 pg. 4.

[10] Id at pg. 34.

DRPA Reforms that Passed

- On August 18th, the DRPA Board adopted a resolution to prohibit the employment of relatives of commissioners, officers, and employees.
- On August 25th, the DRPA Board adopted a resolution to require the approval of the Board before any officer or director obtain outside employment.
- On August 25th, the DRPA Board adopted a resolution eliminating the position of Assistant to the Chairman (the position of Assistant to the Vice-Chairman was vacant).

McCord Proposal

- Create a hiring committee; adopt clear hiring qualifications and standards; establish minimal education and experience levels for positions; any deviation to be publically disclosed and explained.
- Prohibit political/campaign work during working hours or use of any DRPA resources for campaign purposes.

Economic Development Projects

- In 1992 DRPA Interstate Compact was amended to authorize the Authority to undertake and fund economic development projects [\[11\]](#). Since that time the DRPA has spent over ***\$400 million dollars*** on economic development projects on both sides of the river.
- Projects were funded largely through the accumulation of bond debt.
- All economic development projects funded by the DRPA are to be included in the DRPA's master plan for the development of the Port District [\[12\]](#). However, the DRPA 2010 Management Audit released in July cites that the DRPA master plan has not been updated since 2005. [\[13\]](#)
- Projects under \$100,000 are not presented to the Board for approval.

[\[11\]](#) 36 P.S. § 3503 (Delaware River Port Authority Interstate Compact, section XII).

[\[12\]](#) Id.

[\[13\]](#) At page 43, DRPA Management Audit Final Report, TransTech Management, Inc., July 2010

Sampling of Projects

- The following is a partial list of economic development projects approved since 2006 for which the proper authorization may not have been provided:
 - 2006 & 2008 Army/Navy football games - \$500,000
 - National Museum of American Jewish History - \$5,000,000
 - Chester, Pa infrastructure improvements - \$10,000,000
 - PRPA Grant for Main Channel Dredging - \$19,250,000
 - The President’s House Renovation - \$3,500,000
 - Riverfront Prison Demolition - \$6,000,000
 - Food Bank of Southern New Jersey - \$2,000,000
 - Special Project Fund - \$2,000,000
 - Philadelphia Hospitality Grant - \$50,000
 - Polling – Zobgy Associates - \$26,450
 - American Community Partnerships Local Hire Program - \$95,000
 - American Community Partnerships Local Hire Program - \$97,825,
 - Bellevue Communications – Public Relations Group - \$25,000
 - Bellevue Communications – Media Buying Services - \$99,000

Economic Development Reforms Passed

- On August 18th, the DRPA Board adopted a resolution to “stop spending funds for [economic development] projects that are not directly connected to the assets under its direct control (i.e. the bridges, commuter train, and cruise terminal).”
- On August 25th, the DRPA Board adopted a resolution eliminating all monetary contributions to charitable and civic organizations by the Authority.

McCord Proposal

- Conduct a performance audit and a forensic audit of the DRPA including the funding of economic development projects.
 - Determine how projects are evaluated and funded
 - Identify conflicts in project funding decisions.
 - Evaluate economic impact of funded projects.
- Update Master Plan as required by the interstate compact.