

**TESTIMONY OF AUDITOR GENERAL JACK WAGNER
SENATE TRANSPORTATION COMMITTEE**

***Hearing on the Delaware River Port Authority*
September 22, 2010**

Chairman Rafferty, Chairman Stout, members of the Senate Transportation Committee, thank you for inviting me to this important hearing about the need for reforms at the Delaware River Port Authority (DRPA).

As both the Auditor General of the Commonwealth of Pennsylvania and as an *ex-officio* Commissioner of the DRPA, I am deeply concerned about the revelations of management and fiscal improprieties at the authority over the past several months and years. I want to assure the committee and the public that these are precisely the types of issues that I have focused on and attempted to correct since assuming my seat on the board. Today, I would like to discuss my efforts at bringing meaningful and long-lasting reform to both the DRPA and its subsidiary, the Port Authority Transit Corporation (PATCO).

Yet even before the recent focus on the need to reform the DRPA, I regularly questioned the waste and abuse of the authority's funds. In particular, I was the lone voice on the board with regard to two issues that I know are of concern to this committee – the use of DRPA funds for economic development projects and the loss of scarce public transportation dollars through risky financial schemes.

First, I have repeatedly expressed my opposition over the years to the use of toll revenues and other funds controlled by the DRPA for economic development projects. For example, two-and-a-half years ago, in February 2008, I voted against the \$10 million grant provided for the Chester soccer stadium; in February 2009, I voted against grants totaling \$11 million to various projects in Pennsylvania and New Jersey; and, in December 2009, I voted against over \$23 million in new and reallocated funding for several more projects, including \$1.5 million in funds to sponsor the Army/Navy Game. Although some of these projects may have merit, the DRPA should not be funding them. It is my firm belief that the authority should focus on its core mission – providing a safe and effective means of travel for the public at a reasonable cost – rather than engage in economic development for the region, a task assigned, and best left, to others.

The management audit of the DRPA that was finally released last month supported my position by finding that economic development projects since 2005 were not authorized. While the DRPA was spending hundreds of millions of dollars in public funds on economic development projects, it lacked an updated Master Plan that included those projects and, as a result, it was in violation of the Interstate Compact that governs the authority. Based on this information, I introduced a resolution in August to prohibit the DRPA and PATCO from using any funds under their control for projects that are not directly connected to their assets – the bridges, commuter train, and cruise terminal. I was proud to see my resolution pass overwhelmingly by the board, sending a message to the toll- and fare-payers that, at least under the current board, their hard-earned dollars would only be used to invest in meeting real

transportation needs. However, I support efforts by Chairman Rafferty and others to ensure that this reform becomes permanent by completely stripping the economic development power out of the Compact.

Second, a year ago, I began sounding the alarm about the use of swap agreements to finance public debt. A swap is a contract between a bond issuer, such as the DRPA or other public entity, and an investment bank, in which the parties bet on which way interest rates will move. In theory, swaps allow government entities to enter into variable-rate debt financing in order to take advantage of low interest rates and, at the same time, hedge against the possibility of those same interest rates going up. However, in reality, swaps are nothing more than a form of gambling with public funds. The party that guesses right wins and gets paid; the party that guesses wrong loses and must pay the other party. How much is won or lost is determined by the size of the underlying debt, how much interest rates fluctuate, and other factors. The winner is often the investment bank at the expense of the public.

The DRPA entered into seven swaps in 2000 and 2001 related to over \$1 billion in debt. Although the DRPA collected \$45 million in upfront payments, the swaps have cost \$68 million so far in termination fees and additional interest costs. Based on the most recent information provided to me, the remaining active swaps have a net negative fair value of \$248 million, which is the equivalent of one year of tolls on all four bridges operated by the authority. No wonder members of the traveling public have lost faith in the DRPA's ability to appropriately manage their hard-earned toll dollars. The board unanimously passed my resolution last December – long before reform at the DRPA became popular – to prohibit the authority from entering into more swap agreements and to require the authority to begin a process of terminating its current swaps. Again, the DRPA must invest its funds in its transportation assets, not waste them elsewhere, in this case on toxic financial products peddled by Wall Street bankers.

In July, based on my experience at the DRPA and in light of critical issues exposed by my fellow commissioner, John Dougherty, the media, and others, I proposed multiple reforms for the DRPA and PATCO. In addition to prohibiting the use of funds for economic development projects, which I have already discussed, I called for the following:

- *Submit to independent performance audits, at a minimum, every two years, not every five years as required by the Interstate Compact.* Although government auditing standards prohibit my department from auditing the DRPA myself due to independence concerns raised by my *ex-officio* membership on the board, I offered to use my experience in developing an audit plan and serving as the board's liaison to the auditors. The board passed this resolution in August, designating the Auditor General as Chairman of a new Audit Committee. The resolution also permits the New Jersey Comptroller to audit the DRPA. This resolution may be the most important result of the current reform efforts. My committee has hit the ground running and will play a critical role in bringing greater transparency and accountability to the authority.
- *Review and revise the management compensation system.* The board passed this resolution in August, designating the Pennsylvania State Treasurer as Chairman of a new Compensation Committee to report back to the board in October.

- *Review and revise the travel expenditure policy.* The board passed this resolution in August, requiring an analysis by the staff and board action by mid-November.
- *End the practice of adding last-minute items to the monthly meeting agendas, except in cases of true emergency.* The board passed this resolution at the September board meeting last week.

I also joined Commissioner Dougherty in calling for the following reforms:

- *Abolish the practice of holding separate meetings for the commissioners from each state before the public board meeting.* The caucus system undermined both transparency and the need for the individual members of the board to put their parochial interests aside and act solely in the best interests of this bi-state authority. The board passed this resolution in August.
- *Reduce the threshold amount for requiring competitive bidding of contracts and advance notice to board members.* The board passed resolutions passed in August and September that reduced the threshold from \$100,000 to \$25,000.
- *End free bridge and train passes for all employees.* The board passed this resolution in August.
- *End car allowances for all employees.* The board passed this resolution in August.
- *Restrict outside employment by employees.* The board passed this resolution in August.

Last week, the board also passed my resolution to create two Citizens' Advisory Committees – one for the DRPA and one for PATCO – to bring a real-world perspective to the decisions made by the board. In addition, during meetings in August and September, the board passed many other reforms that I supported, including those related to open meetings, open records, conflicts of interest, anti-nepotism, disclosure of vendors' political contributions, and the elimination of financial contributions to charitable and civic organizations.

Although much has been accomplished in the last six weeks, there is still much more to do before we can be satisfied. As Winston Churchill famously said after a crucial British victory during World War II, "Now this is not the end. It is not even the beginning of the end. But it is, perhaps, the end of the beginning." However, with the support of this committee, other like-minded commissioners, and, perhaps most important, the families of Pennsylvania and New Jersey whose toll dollars support the DRPA's operations, I believe that the authority can enter a new era of transparency, accountability, fiscal responsibility, and good government. The people who we serve deserve no less.

Additional recommendations and ideas from the Senate Transportation Committee would be helpful in the ongoing process of reforming the DRPA.

I would be happy to take your questions.