

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

CITY OF PHILADELPHIA and JOHN F. STREET,
individually as a taxpayer and in his official capacity
as Mayor of Philadelphia,

Petitioners,

vs.

COMMONWEALTH OF PENNSYLVANIA,
EDWARD G. RENDELL, in his official capacity
as Governor of the Commonwealth of Pennsylvania;
ROBERT C. JUBELIRER, President Pro Tempore
of the Senate of the Commonwealth of
Pennsylvania; MATTHEW J. RYAN, Speaker of the
House of Representatives of the Commonwealth of
Pennsylvania; DAVID J. BRIGHTBILL, Minority
Leader of the Senate of the Commonwealth of
Pennsylvania; H. WILLIAM DEWEESE, Minority
Leader of the House of Representatives of the
Commonwealth of Pennsylvania; and PENNSYLVANIA
CONVENTION CENTER AUTHORITY,

Respondents.

No.

**PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT SEEKING
A DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

NOTICE TO PLEAD

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within 30 days (pursuant to Pennsylvania Rule of Appellate Procedure 1516(c)) after this Petition and Notice are served by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any claim or relief requested by Petitioners.

**PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT SEEKING
A DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

I. Introduction.

1. This is a suit for declaratory relief to declare Act 2002-230 (the “Act”) unconstitutional and for injunctive relief to stay implementation of a facially unconstitutional statute that is having profound and negative effects on the economic future of Southeastern Pennsylvania.

2. The region is already beginning to see the enormous and negative effects of the statute, Act 2002-230. Among many other fundamental changes, some provisions of the Act tamper with the governance of the Pennsylvania Convention Center, and have already stopped progress in its tracks. Certain unions which had previously committed to proceed under an all-important agreement to improve Convention Center service are no longer willing to do so. The ambiguities in how the governance changes are to be implemented have resulted in Board gridlock.

3. The shadow cast by the unconstitutionality of the Act will continue to thwart progress unless its implementation is stayed. Financial institutions may be reluctant to provide financing because the Convention Center’s Board may later be found to have been convened pursuant to an unconstitutional statute. The validity of other contracts entered into by an unconstitutionally-convened Board could be suspect and therefore could deter others from entering into such contracts.

4. The effects of this paralysis reverberate well beyond the walls of the Convention Center. That institution is the centerpiece of the region's hospitality industry. An important study conducted by respected economists at Econsult Corporation called the Center the "crucial cornerstone of the hospitality industry." They wrote: "The main purpose of a Convention Center in Philadelphia, Pennsylvania or elsewhere, is to stimulate the regional economy by drawing visitors into the region where they will spend money on hotels, restaurants and other attractions."

5. The Center has stimulated the economy as hoped. According to *Center City Developments*, there are now more than 56,000 hospitality jobs in the City, accounting for 10 percent of the City's workforce. Another 80,000 people are employed in the hospitality industry in the surrounding suburbs.

6. According to DK Shifflet and Associates, Inc., the leading USA travel / tourism market research consulting firm, Philadelphia generates \$3 billion per year in domestic travel spending. Regionally, the figure is even more staggering at \$8.1 billion per year. The Convention Center is the engine for this tremendous growth, accounting for more than 10 million visitors who themselves have spent \$2.6 billion since the Center opened. In 2002, Convention delegates booked more than 500,000 rooms nights and spent \$240 million.

7. Act 2002-230 has and will continue to cause immediate and irreparable harm to other aspects of the City's financial stability. Although the subject is nowhere listed in the title of the Act, and was added at the very last moment, the Act purports to affect substantive and procedural protections in contract negotiations with the City's uniformed services; protections originally added to secure the City's sound economic future in the Pennsylvania

Intergovernmental Cooperation Authority Act For Cities of The First Class (“PICA”). An arbitration panel is set to begin deliberating under PICA on January 22, 2003, for a new arbitration award governing the terms and conditions of employment for Philadelphia Fire Fighters; therefore, the City and the Fire Fighters are faced with a contract of uncertain validity and with potentially long-term negative consequences on the City’s financial stability.

8. The right to relief in this case is clear. The Constitution of this Commonwealth contains important provisions -- Article 3, Sections 1, 3, 4 and 6 -- to ensure that legislation is considered and adopted in the open and in public, and that members of the General Assembly and others are put on notice so that they might vote with circumspection. The process by which Act 2002-230 was adopted violated all those provisions and is an example of the evils those provisions seek to address. Legislators cannot and did not have an opportunity to consider and understand the scope and nature of the legislation they adopted. The public, caught unawares, did not have an opportunity to participate.

9. In particular, on November 26 and 27, 2002, along with hundreds of other bills, the General Assembly of the Commonwealth of Pennsylvania was presented, for the first time, with a 127-page bill containing thousands of words, covering scores of subjects and making fundamental changes to institutions operating within the City of Philadelphia and beyond. The title of that bill, itself covering 27 lines of densely-worded text, still was not enough to describe the many changes that followed. Faced with a take-it-or-leave-it situation on the eve of the Thanksgiving holiday, the legislators in both Houses passed the bill on the same day it was given to them. So hasty was the consideration of the bill that only after it was passed did the legislators realize that it potentially repealed an entire category of taxes within the City of

Philadelphia and had to be fixed. The bill was signed into law on December 30, 2002, becoming Act 2002-230.

II. Parties.

10. Petitioner City of Philadelphia is a City of the First Class in the Commonwealth of Pennsylvania and is also a County of the First Class in the Commonwealth of Pennsylvania. Philadelphia has adopted a Home Rule Charter, Pa. Code, Title 351, §§ 1.1-100 -- 12.12-503, pursuant to The First Class City Home Rule Act, Act of April 21, 1949, P.L. 665, No 155, found at 53 P.S. Chapter 32 (§§13101 --13157) and the Pennsylvania Constitution, Article 9 Section 2, 1949, April 21, P.L. 665, § 1.

11. Petitioner John F. Street is Mayor of the City of Philadelphia and a taxpayer of the City of Philadelphia and Commonwealth of Pennsylvania.

12. Respondent Edward G. Rendell is the Governor of the Commonwealth of Pennsylvania.

13. Respondent Robert C. Jubelirer is the President Pro Tempore of the Senate of the Commonwealth of Pennsylvania.

14. Respondent Matthew J. Ryan is the Speaker of the House of Representatives of the Commonwealth of Pennsylvania.

15. Respondent Robert J. Mellow is the Minority Leader of the Senate of the Commonwealth of Pennsylvania.

16. Respondent H. William DeWeese is the Minority Leader of the House of Representatives of the Commonwealth of Pennsylvania.

17. Respondent Pennsylvania Convention Center Authority is an authority of the Commonwealth of Pennsylvania existing pursuant to the Pennsylvania Convention Center Authority Act, Act of June 27, 1986, P.L. 267, No. 70. In Act 2002-230, the General Assembly purportedly repealed Act 1986-70 and created a new convention center authority by creating a new Chapter 59 of Title 53 of Pa.C.S.

III. Jurisdiction.

18. This Honorable Court has jurisdiction over this action pursuant to 42 Pa. C.S. § 761(a)(1).

IV. Statement of Facts.

19. Act 2002-230 was originally introduced as Senate Bill 1100 (“SB 1100”), and for over a year, SB 1100 contained fewer than 13 pages and related only to a few technical changes to Title 53 of the Pennsylvania Consolidated Statutes. The first version contained five pages. It was introduced on October 9, 2001, and referred to the Senate Committee on Local Government on the same date. A true and correct copy of this print, Printer's No. 1381, is appended to this Petition as Exhibit “A”.

20. At the time of introduction, the bill made only one change to existing law. It provided that board members of borough business improvement district authorities would not need to be residents of the municipality which appointed them if they were taxpayers or

maintained a business in that municipality. This change was made in the bill by amending Section 5610(b) of Title 53 of the Pennsylvania Consolidated Statutes.

21. The simple, three-line title explained the purpose of the bill: “Amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for governing body of municipal authorities.”

22. Senate Bill 1100 was reported out of the committee without change on November 20, 2001 and on the same day received the first of three required considerations in the Senate.

23. The Senate considered the bill for the second time on December 3, 2001. The Senate considered the bill for the third time on December 4, 2001, and on the same date passed the bill in the same form in which it was introduced.

24. In the House of Representatives, Senate Bill 1100 was referred to the Committee on Local Government on December 10, 2001.

25. On June 12, 2002 the House Committee reported the bill with amendments and the bill was printed for the second time as Printer's No. 2077. The new print contained eight pages. A true and correct copy of that print is appended to this Petition as Exhibit “B”.

26. This second version made only minor substantive changes to the first version of the bill. This second version provided that the new residency rule would apply to not only business improvement districts of boroughs, but also to other municipalities and to board members of Neighborhood Improvement District Management Associations in municipalities

except for cities of the first class. The new version of the bill also made another minor change in the law by providing that municipal authorities shall file their audit in the authority office for the purpose of public review and in the office of the municipality or municipalities that created the authority.

27. The title was lengthened to explain the subject of the new matters: “and for certain fiscal reporting.”

28. The bill received its first consideration in the House on June 12, 2002, the day it was reported from committee, and was laid on the table the same day. On June 17, 2002 the bill had its second House consideration and on the same day was referred to committee, this time to the Appropriations Committee. The Appropriations Committee reported the bill without change on June 19, 2002. The House recommitted the bill to the Appropriations Committee on June 24, 2002.

29. The Appropriations Committee amended the bill in committee and again reported the bill as so amended on June 25, 2002. This was the third version of the bill since introduction and it was given a third printing Printer's No. 2139. A true and correct copy of this print is appended to this Petition as Exhibit “C”.

30. This third version of the bill was nine pages long. It modified the prior version by adding a provision concerning standing to file a zoning appeal in cases related to outdoor advertising in cities of the first class.

31. On June 26, 2002, the day after this bill was re-reported by the Appropriations Committee, the bill received its third consideration by the House.

32. The full House amended the bill on June 26, 2002, and it was passed by the House on the same day. This fourth version of the bill, as passed by the House, was given a new print, Printer's No. 2157. A true and correct version of this print is appended to this Petition as Exhibit "D".

33. This new fourth version was 12 pages long. It retained the provisions of the third version except that it removed the provision relating to the Zoning Board of Adjustment in cities of the first class. It also added a new § 1391 to Title 53 Pa.C.S. which would give to the governing body of municipalities control of all gifts made in trust to the municipality. The new version also added language to the title to explain this addition: "providing for acceptance of gifts or donations."

34. Each of the first four versions addressed only changes to Title 53 of the Pennsylvania Consolidated Statutes.

35. Thereafter, in the Senate, on June 27, 2002, the new version of the bill was referred to the Rules and Executive Nominations Committee. That Committee re-reported the bill on concurrence, without change, on October 9, 2002. On the same day, the Senate re-committed the bill to that Committee.

36. The bill did not reappear until November, 26, 2002, two days before Thanksgiving and the effective end of the legislative session. On that day, the Senate Rules and Executive Nominations Committee reported the bill with densely-worded, lengthy new amendments. The new version of the bill contained 127 pages. The Committee reported the bill "on concurrence," meaning that the Senate could not amend it.

37. This fifth version of the bill was printed as Printer's No. 2436. A true and correct copy of this print is appended to this Petition as Exhibit "E".

38. The new version of the bill added 16 entirely new and complex provisions which:

- A) Add provisions to prohibit political activity by police officers;
- B) Make significant changes to the laws relating to Parking Authorities;
- C) Give major new powers to the Philadelphia Parking Authority;
- D) Give the Philadelphia Parking Authority exclusive authority to fix rates and other charges for its facilities;
- E) Establish the Philadelphia Parking Authority as the exclusive impounding agent or towing agent for impoundment orders;
- F) Transfer authority to regulate taxicabs and limousines from the Public Utility Commission to the Philadelphia Parking Authority;
- G) Change pay and expense provisions for the Philadelphia Parking Authority;
- H) Remove oversight authority by the Philadelphia Finance Director from the Philadelphia Parking Authority;
- I) Authorize mixed use projects by the Philadelphia Parking Authority;
- J) Create a new taxicab regulatory fund in the Philadelphia Parking Authority;
- K) Regulate bonds by the Philadelphia Parking Authority;
- L) Deal with limitations on bankruptcy by the Philadelphia Parking Authority;

M) Create a new Chapter of Title 53 Pa.C.S., with 45 sections, making extensive provisions for regulation of taxis and limousines in Philadelphia;

N) Create a new Chapter of Title 53 Pa.C.S., with ten new sections, making extensive provisions for the regulation of contractors bonds and financial security for redevelopment contracts throughout Pennsylvania, making major substantive changes in the law in this area;

O) Create a new Chapter of Title 53 Pa.C.S, with 23 sections, providing for a new Pennsylvania Convention Center Authority, making major changes in governance provisions, providing for new appointments of Board members by the County Commissioners of Bucks, Montgomery, Chester and Delaware Counties, among many other major changes in the legal provisions governing the authority;

P) Make a major change in the law by repealing Subsection 209(k) of the Act of June 5, 1991, P.L. 9, No. 6, PICA, which requires determinations of an Act 111 interest arbitration panel, establishing terms and conditions of employment for uniformed police and fire fighters, to accord substantial weight to the approved financial plan and the financial ability of the assisted city to pay the cost of an increase in wages or fringe benefits without adversely affecting levels of service. The repealed provision also required the panel to specifically address in writing the City's five-year economic recovery plan; it also gave parties the right to appeal to the Court of Common Pleas if the panel does not give proper weight or fails to address the plan or lacks substantial evidence as to the ability to pay; and

Q) Appropriate funds for a new taxi program in Philadelphia.

39. Thus, the new version of the bill covered a variety of subjects, unrelated to one another, including at least the following eight distinct and widely divergent areas of governmental activity: (A) the authority of municipal governments to exercise control over real and personal property transferred to such governments in trust for public purposes (Section 1 of the Act); (B) the political activities of police officers (Sections 1.1 and 2); (C) the powers and duties of municipal parking authorities generally, with specific provisions relating to parking authorities of Cities of the First Class (Sections 3, 4, 5, 6 and 13); (D) regulation of taxicabs and limousines (Sections 7 and 13); (E) residency requirements for members of governing boards of municipal authorities, and financial reporting requirements for municipal authorities (Section 6.1); (F) bonding and financial security requirements for municipal redevelopment contracts (Section 7); (G) the establishment of the Pennsylvania Convention Center Authority and definition of its powers and duties (Sections 7, 9, 10); and (H) the conduct of, and rights of appeal from, interest arbitration panels convened pursuant to the Act of June 24, 1968 (P.L. 237, No. 111), known as an Act Governing Collective Bargaining by Policemen or Firemen.

40. These broad changes affected not just Title 53 of the Pennsylvania Consolidated Statutes, but also uncodified statutes such as PICA. It also repealed portions of Title 8 of the Pennsylvania Statutes.

41. The title of the new version now contained 27 lines of densely-worded text:

AN ACT

amending title 53 (municipalities generally) of the Pennsylvania Consolidated Statutes, providing for acceptance of gifts or donations; further providing for powers and duties of the Municipal Police Officers'

Education And Training Commission; prohibiting political activity by municipal police officers; further providing, in Parking Authorities, for definitions, for purposes and powers and for special provisions for authorities in first class cities; providing, in Parking Authorities in first class cities, for additional special provisions, for management of authority funds, for special funds, for bonds, for contracts with authority obligees, for commonwealth pledges, for bond and trust indentures, for funds collected, for bonds as legal investments, for pledge validity, for security interests in funds and accounts and for bankruptcy limitations; further providing for municipal authority governing bodies and money; providing for regulation of taxicabs and limousines in first class cities; further providing for governing body of municipal authorities and for certain fiscal reporting; codifying the act of June 27, 1986 (P.L. 267, No. 70), known as the Pennsylvania Convention Center Authority Act; defining "expansion or substantial renovation"; further providing for purposes and powers and for capital and operating budgets; providing for expansion funding; further providing for governing board, for moneys of the authority, for award of contracts, for interests of public officers and for rental tax; making an appropriation; and making repeals.

42. Even with 27 lines of text, the title failed to identify all of the many subjects that it covered. The title of SB 1100 did not include any mention of any amendment to PICA.

43. The title also failed to mention the fact of, or the subject matter of, the new chapter added to the bill entitled "Contractors Bonds And Financial Security For Redevelopment Contracts." Indeed, the title is affirmatively misleading because, while it mentions bonds and contracts, that reference pertains only to bonds and contracts in connection with Parking Authorities. The new chapter which is omitted has to do with contractor bonds in a different context -- redevelopment contracts.

44. The full Senate passed the bill without amendment on November 26, 2002, the same day that it was reported. The Senate sent the bill to the House. During its 12-hour session that day, the Senate considered and passed 25 other bills. Upon information and belief, the Senate considered a total of 219 bills in the three day period prior to its final adjournment for the year on November 28.

45. The Senate acted so quickly in adopting SB 1100 that it realized, only after it had finished its work, that one of the repealed provisions relating to the Pennsylvania Convention Center Authority might be read to repeal a hotel tax in the City of Philadelphia. The next day, the legislature rushed to clarify this error by introducing and enacting a new bill which became 2002-237.

46. Also on November, 27, 2002, one day before Thanksgiving, the House referred the bill to the House Rules Committee. Later that same day, the House Rules Committee reported the bill to the full House. The bill was reported “on concurrence,” meaning that the full House could not amend it. Still later in the same day, the full House considered the bill.

47. Even later on the same day, November 27, 2002, the full House approved the bill as reported without change. The House approved 45 other bills during that same day during a 15-hour session. Upon information and belief, the House considered 191 bills during the three days before its final adjournment of the year on November 28.

48. Upon information and belief it was not possible for the members of either the Senate or the House to understand, comprehend or digest the substance of these amendments to SB 1100 which had not had any prior consideration by either body.

49. As one Member, the Honorable Steve Samuelson of Lehigh and Northhampton Counties, complained: “We are dealing with a 127-page bill that came over from the Senate just yesterday and each member is facing the challenge of digesting every possible provision that is in this 127-page piece of legislation.... Very difficult for each member of this Assembly to digest a 127-page bill and anticipate all the provisions that the State Senate put in the bill yesterday.” (Unofficial transcript of proceedings, attached as Exhibit F).

50. It was not possible for Petitioners or other members of the public to understand, comprehend or digest the substance of these amendments to SB 1100 prior to their consideration and passage.

51. The former Governor, Mark Schweiker, approved SB 1100 on December 30, 2002, making it the act of December 30, 2002, No. 230, the Act challenged by this Petition.

52. The fact that the legislators, Petitioners and the public could not have known what was in the Act is illustrated by crippling ambiguities that are only now coming to light. For example, the Act provides that the four suburban Philadelphia counties will have the right to appoint Board members to the Convention Authority. Section 10 of the Act, however, provides for a transition period during which the two members previously appointed by the counties will serve the remainder of their terms. Thus, all of the participants are faced with the question as to whether there will be four new members, for a total of six county-appointed

members. If not, they must resolve which of the four counties will be entitled to select members for the two seats which are not yet filled. There is no answer to these questions.

V. Standing.

53. Petitioner City of Philadelphia (the “City”) has standing to bring this action because the existing rights of the City have been substantially and seriously altered to the City’s detriment by virtue of the challenged legislation.

54. The City, its Mayor and its taxpayers have standing to seek to enjoin the operation of a statute which was enacted through an unconstitutional process, where that statute directly changes laws relating to the Pennsylvania Convention Center located in Philadelphia, and the Philadelphia Parking Authority, interest arbitration proceedings to determine terms and conditions of employment between the City of Philadelphia and its uniformed personnel, and numerous other provisions of this statute which disparately affect Philadelphia to a greater extent than any other municipality.

55. The City, the Mayor and the taxpayers have a right pursuant to the grant of Home Rule to challenge unconstitutional provisions which would improperly restrict the right of the people of Philadelphia to Home Rule.

Count I--Violation of Article 3, Section 3 of the Constitution (Title)

56. Petitioners incorporate by reference paragraphs 1 through 55 above as though fully set forth herein.

57. Article 3, Section 3 of the Pennsylvania Constitution, entitled “Form of Bills,” provides:

“No bill shall be passed containing more than one subject, which shall be clearly expressed in its title, except a general appropriation bill or a bill codifying or compiling the law or a part thereof.”

58. Article 3, Section 3 of the Constitution is mandatory. Its twin protections -- a requirement that there be only one subject and the requirement that the subject be “clearly expressed” in the title -- is intended to put legislators and the public on notice of what the subject is, so that legislation is not passed by negligence, oversight, stealth or deception.

59. The title of the final version of SB 1100 fails to comply with the requirement for a title that “clearly express[es]” its subject.

60. The title of the final version of SB 1100 failed to refer in any manner to the major substantive change in the law brought about by repealing a portion of PICA which has been critical to Philadelphia’s financial recovery.

61. The title of the final version of SB 1100 failed to refer to the newly created Chapter 58 (new §§ 5801 -- 5810) entitled Contractors Bonds And Financial Security For Redevelopment Contracts, and it failed even to refer to the subject matter of that chapter.

62. The title of the final version of SB 1100 is misleading in that it put readers on notice that it dealt with certain specifically enumerated subjects, but it failed to identify any subject that relates to the changes to PICA or the addition of Chapter 58 of Title 53.

63. The constitutional violation of Article 3, Section 3, by failing to clearly express the changes to PICA and the addition of Title 53, Chapter 58, was further carried out by

the following actions which would cause the legislators and the public to overlook these provisions and not realize what was being voted on:

(A) The sudden addition of 115 pages of legislation at the last minute, at a time when legislators were deluged with bills which they could not possibly understand and consider;

(B) The unconstitutional inclusion of multiple disparate subjects having no relation to each other added at the last minute;

(C) A title of 27 lines of widely divergent subjects;

(D) The submerging of the PICA amendment on page 119 in a camouflaged fashion where it would be presumed to be a technical conforming amendment;

(E) The fact that the bill contained no printing of the text of the statute which was being repealed; and

(F) The fact that when the bill was considered on three separate occasions by either House, none of the subjects of these last minute additions were in the bill.

64. As such, this bill is constitutionally infirm as violating a mandatory requirement of the Constitution for the passage of legislation.

65. As a result of the violation of Article 3, Section 3, neither the General Assembly nor the public had notice of the contents of SB 1100; nor did the General Assembly have the opportunity to vote with circumspection.

66. As a result of the violation of Article 3, Section 3, Petitioners were harmed in that they did not have notice of the contents of SB 1100 and were deprived of the opportunity to participate in the legislative process.

67. The harm to Petitioners is irreparable in that the Act is having and will continue to have disastrous consequences for Southeastern Pennsylvania's economy.

68. The harm to Petitioners is irreparable in that the legislation has already been adopted and the General Assembly has adjourned.

Count II--Violation of Article 3, Section 3 of the Constitution (Subject Matter)

69. Petitioners incorporate by reference paragraphs 1 through 68 above as though fully set forth herein.

70. The final version of SB 1100 violated the second of the twin mandatory provisions of Article 3, Section 3 of the Constitution -- that a bill contain only one subject matter.

71. The bill contains a large number of disparate subjects. The elements of the bill have no common scheme or purpose and no relationship to each other. The bill is not and does not purport to be a comprehensive revision of local government. Rather it merely locates, in one bill, entirely disparate subjects.

72. The range of subject matters is illustrated by the fact that the bill makes changes not just to the operation of municipal authorities, the subject of the original bill, but to

all local governments in Pennsylvania dealing with redevelopment and many other, different forms of governmental organizations.

73. The range of subject matters is illustrated by the fact that the bills cover subjects that range even beyond Title 53, one very broad title of the Pennsylvania Consolidated Statutes. In addition to the wide range of subjects in that title, SB 1100 also amends uncodified acts found in Title 8 and Title 53 of the uncodified Pennsylvania Statutes.

74. As a result of the unconstitutional form in which SB 1100 was presented to the General Assembly, legislators were required to digest, consider and debate matters that were not components of a general subject but instead reflected entirely different policy and programmatic objectives and methods.

75. As a result of the violation of Article 3, Section 3, neither the General Assembly nor the public had notice of the contents of SB 1100; nor did the General Assembly have the opportunity to vote with circumspection.

76. As a result of the violation of Article 3, Section 3, Petitioners were harmed in that they did not have notice of the contents of SB 1100 and were deprived of the opportunity to participate in the legislative process.

77. The harm to Petitioners is irreparable in that the Act is having and will continue to have disastrous consequences for Southeastern Pennsylvania's economy.

78. The harm to Petitioners is irreparable in that the legislation has already been adopted and the General Assembly has adjourned.

Count III--Article 3, Section 1 (Change of Purpose)

79. Petitioners incorporate by reference paragraphs 1 through 78 above as though fully set forth herein.

80. The Pennsylvania Constitution, Article 3, Section 1, entitled “Passage of laws,” states:

“No law shall be passed except by bill, and no bill shall be so altered or amended, on its passage through either House, as to change its original purpose.”

81. This constitutional requirement is intended to strengthen the requirement in Article 3, Section 3 that notice be given to legislators and to the public as to the contents of the bills they are voting for. Without such protection, legislators or members of the public who believed that they had already considered a particular subject in prior readings could be deceived by a change in the underlying subject.

82. As described above, the versions of SB 1100 that existed until the last two days contained minor changes to the membership requirements for certain municipal authorities and to the location where certain reports of authorities were to be filed. However, on November 26, 2002, when voluminous amendments were added, the amendments radically altered the substance of the legislation. As amended, the bill became a vehicle for major changes in parking authorities throughout Pennsylvania, major overhaul of taxicab and limousine regulation, major restructuring of Philadelphia’s Convention Center Authority, major empowerment of the Philadelphia Parking Authority, major changes to redevelopment bonds and contracts throughout Pennsylvania, and a major repeal in PICA (which is not even part of Title 53 Pa.C.S.).

83. These last minute, fundamental changes to SB 1100 violated the mandatory provisions of Article 3, Section 1 of the Constitution.

84. As a result of the violation of Article 3, Section 1, neither the General Assembly nor the public had notice of the contents of SB 1100; nor did the General Assembly have the opportunity to vote with circumspection.

85. As a result of the violation of Article 3, Section 1, Petitioners were harmed in that they did not have notice of the contents of SB 1100 and were deprived of the opportunity to participate in the legislative process.

86. The harm to Petitioners is irreparable in that the Act is having and will continue to have disastrous consequences for Southeastern Pennsylvania's economy.

87. The harm to Petitioners is irreparable in that the legislation has already been adopted and the General Assembly has adjourned.

Count IV--Article 3, Section 4 (Three Readings)

88. Petitioners incorporate by reference paragraphs 1 through 87 above as though fully set forth herein.

89. Article 3, Section 4 of the Pennsylvania Constitution, entitled "Consideration of bills," states:

"Every bill shall be considered on three different days in each House. All amendments made thereto shall be printed for the use of the members before the final vote is taken on the bill and before the final vote is taken, upon written request addressed to the presiding officer of either House by at least twenty-five per cent of the members elected to that House, any bill

shall be read at length in that House. No bill shall become a law, unless on its final passage the vote is taken by yeas and nays, the names of the persons voting for and against it are entered on the journal, and a majority of the members elected to each House is recorded thereon as voting in its favor.”

90. This requirement that members of the legislature have three days to consider each bill and have amendments available is another of the protections in the Pennsylvania Constitution to ensure that legislators and the public have adequate notice of pending legislation and that legislators can vote with circumspection.

91. As described above, the version of SB 1100 that was considered for three days in each House was completely different than the bill upon final passage. It received all of its principal amendments and the great bulk of its subject matter and importance after each and every one of the three days of consideration had been completed. It was not until November 26, 2002, that the real bill took shape.

92. Because the form of SB 1100 as considered and adopted was so fundamentally different from the form of the bill that the House and Senate had previously considered, it was effectively a different bill. Thus, the form of the bill that was considered on the last day was not, in fact, considered on three separate occasions and therefore the process violated Article 3, Section 4 of the Constitution.

93. As a result of the violation of Article 3, Section 4, neither the General Assembly nor the public had notice of the contents of SB 1100; nor did the General Assembly have the opportunity to vote with circumspection.

94. As a result of the violation of Article 3, Section 4, Petitioners were harmed in that they did not have notice of the contents of SB 1100 and were deprived of the opportunity to participate in the legislative process.

95. The harm to Petitioners is irreparable in that the Act is having and will continue to have disastrous consequences for Southeastern Pennsylvania's economy.

96. The harm to Petitioners is irreparable in that the legislation has already been adopted and the General Assembly has adjourned.

Count V--Article 3, Section 6 (Amendment and Repeal)

97. Petitioners incorporate by reference paragraphs 1 through 96 above as though fully set forth herein.

98. The Constitution of Pennsylvania in Article 3, Section 6, "Revival and amendment of laws," states:

"No law shall be revived, amended, or the provisions thereof extended or conferred, by reference to its title only, but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length."

99. This mandatory provision again is intended to provide legislators and the public adequate notice of the bills under consideration. When the purpose of a bill is to amend or repeal a section of a law, the bill must contain the text of the section to be amended or repealed. This Constitutional provision is further enforced by 1 Pa.C.S. § 1104, which contains a similar provision in the requirements for the adoption of statutory provisions.

100. SB 1100 purports to amend or repeal statutes, but fails to contain the text of those statutes.

101. For example, SB 1100, Section 8 (2) (II) purported to repeal Subsection 209(k) of the act of June 5, 1991, P.L. No. 6, PICA (See SB 1100, pages 119-120, attached as Exhibit E). The bill fails to contain the text of the repealed Subsection 209(k). Indeed, the provision is misleading because it incorrectly identifies the repealed provision as “*Section* 209(k)”, not *Subsection* 209(k). The bill also fails to print the text of the new 209, as it would stand without the repealed section.

102. This failure to print the repealed and new sections of 209 violates the mandatory provisions of Article 3, Section 6, and 1 Pa.C.S. § 1104.

103. This violation of Article 3, Section 6 compounds the other violations of the Constitution alleged in this Petition. At every turn, the process, printing and purposes of SB 1100 thwarted the letter and spirit of the Constitution’s consistent command in Article 3 to give notice to the legislators and the public of the nature of the people’s business and to enable subjects to be dealt with in a coherent and deliberative manner to prevent improper linkage and coercion.

104. As a result of the violation of Article 3, Section 6, neither the General Assembly nor the public had notice of the contents of SB 1100; nor did the General Assembly have the opportunity to vote with circumspection.

105. As a result of the violation of Article 3, Section 6, Petitioners were harmed in that they did not have notice of the contents of SB 1100 and were deprived of the opportunity to participate in the legislative process.

106. The harm to Petitioners is irreparable in that the Act is having and will continue to have disastrous consequences for Southeastern Pennsylvania's economy.

107. The harm to Petitioners is irreparable in that the legislation has already been adopted and the General Assembly has adjourned.

VI. Injunctive and Declaratory Relief.

108. Immediate injunctive relief is appropriate because the harm to Petitioners is irreparable and they do not have a remedy at law.

109. The chaos at the Convention Center caused by the Act itself and the further cloud of invalidity will, unless the named Respondents are precluded from appointing Board members under the Act and further meeting of the Board stayed, have catastrophic consequences on the region's economy which is so dependent upon the hospitality industry.

110. Immediate relief is necessary because, unless further implementation of the Act is stayed and Respondents are immediately enjoined from taking actions in accordance with Act 2002-203, the many other disparate affected individuals and entities will have already taken the required actions, causing grave harm to the welfare of the citizens of the City of Philadelphia and the Commonwealth. Undoing such actions will be

profoundly disruptive, particularly given the many areas in which Act 2002-203 purports to legislate. For example, the Pennsylvania Public Utility Commission is charged with transferring taxi and limousine regulation to the Philadelphia Parking Authority pursuant to this Act, and the Parking Authority is charged with implementing numerous provisions of this new Act.

111. Moreover, if the General Assembly is permitted to proceed without constraints, especially in the face of such an egregious violation of Article 3 of the Pennsylvania Constitution as exists in the present case, the legislative process will cease to be open and deliberative and instead will be carried on in secret, immune from the input of those, such as the City of Philadelphia in this case, who are most directly affected.

WHEREFORE, Petitioners respectfully request that this Honorable Court

- 1.) enter a preliminary injunction staying all new appointments to the Convention Center Board pursuant to the Act and enjoining any meeting of the Board until this Court makes a final determination on the merits;
- 2.) enter immediate injunctive relief, ordering that all other implementation of Act 2002-230 is stayed in its entirety, and also prohibiting each of the Respondents from implementing Act 2002-230; and
- 3.) declare SB 1100, the Act of December 30, 2002, No. 230, to have been enacted unconstitutionally and therefore null and void.

Respectfully submitted,

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Dated: January 22, 2003

VERIFICATION

I, John F. Street, hereby state that I am Mayor of the City of Philadelphia; that I am authorized to make this verification on behalf of Petitioners in the foregoing Petition for Review in the Nature of a Complaint Seeking a Declaratory Judgment and Injunctive Relief; that I have read the allegations of the foregoing Petition for Review and that they are true and correct to the best of my knowledge, information and belief; and that I understand that the foregoing verification is subject to the penalties of 18 Pa. C.S. §4904 regarding unsworn falsifications to authorities.

John F. Street

Dated: January 22, 2003

CERTIFICATE OF SERVICE

I, Edward T. Fisher, hereby certify that on the 23rd day of January 2003, a true and correct copy of the foregoing PETITION FOR REVIEW IN THE NATURE OF A COMPLAINT SEEKING A DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF was hand-delivered to:

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