

AMENDMENTS TO HOUSE BILL NO. 465

Sponsor: SENATOR TEPLITZ

Printer's No. 2199

1 Amend Bill, page 89, lines 6 through 30; pages 90 through
2 103, lines 1 through 30; page 104, lines 1 through 26, by
3 striking out all of said lines on said pages and inserting

4 Section 1802-C. Definitions.

5 The following words and phrases when used in this article
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Baseline year." The calendar year in which a zone was
9 established.

10 "Bond." The term includes any note, instrument, refunding
11 note or other evidence of indebtedness or obligation.

12 "City." A city of the second class A or third class.

13 "City revitalization and improvement zone." An area of not
14 more than 130 acres, comprised of parcels designated by the
15 contracting authority, which will provide economic development
16 and job creation within a city.

17 "Contracting authority." An authority established under 53
18 Pa.C.S. Ch. 56 (relating to municipal authorities) by a city or
19 home rule county for the purpose of:

20 (1) designating zones; and

21 (2) engaging in the construction, including related site
22 preparation and infrastructure, reconstruction or renovation
23 of facilities.

24 "Department." The Department of Revenue of the Commonwealth.

25 "Earned income tax." A tax imposed on earned income within a
26 zone under the act of December 31, 1965 (P.L.1257, No.511),
27 known as The Local Tax Enabling Act, which a city, or a school
28 district contained entirely within the boundaries of or
29 coterminous with the city, is entitled to receive.

30 "Eligible tax." Any of the following taxes:

31 (1) Corporate net income tax, capital stock and
32 franchise tax, bank shares tax or business privilege tax,
33 calculated and apportioned as to amount attributable to the
34 location within the zone and calculated under section
35 1904-B(b) and (c).

36 (2) Amusement tax, only to the extent the tax is
37 related to the activity of a qualified business within the

1 zone.

2 (3) Sales and use tax, only to the extent the tax is
3 related to the activity of a qualified business within the
4 zone.

5 (4) Personal income tax withheld from its employees by a
6 qualified business for work performed in the zone.

7 (5) Local services tax withheld from its employees by a
8 qualified business for work performed in the zone.

9 (6) Earned income tax withheld from its employees by a
10 qualified business for work performed in the zone.

11 (7) Tax paid to the Commonwealth on the sale of liquor,
12 wine or malt or brewed beverages in the zone.

13 The term does not include cigarette tax.

14 "Facility." A structure or complex of structures to be used
15 for commercial, sports, exhibition, hospitality, conference,
16 retail, community, office, recreational or mixed-use purposes.

17 "Office." The Office of the Budget.

18 "Pilot zone." An area of not more than 130 acres designated
19 by the authority following application and approval by the
20 Department of Community and Economic Development, the office and
21 the department which will provide economic development and job
22 creation within a township or borough, with a population of at
23 least 3,000 based on the most recent Federal decennial census.

24 "Qualified business." As follows:

25 (1) An entity located or partially located in a zone
26 which meets the requirements of all of the following:

27 (i) Has conducted an active trade or business in the
28 zone.

29 (ii) Appears on the timely filed list under section
30 1807-C(a).

31 (2) A construction contractor engaged in construction,
32 including infrastructure or site preparation, reconstruction
33 or renovation of a facility located in or partially in the
34 zone.

35 (3) The term does not include an agent, broker or
36 representative of a business.

37 "Zone." Any of the following:

38 (1) A city revitalization and improvement zone.

39 (2) A pilot zone.

40 "Zone Fund." A city revitalization and improvement fund
41 established under section 1808-C.

42 Section 1803-C. Establishment of contracting authority.

43 (a) Cities.--Except as set forth in subsection (b), a city
44 may establish a contracting authority to designate a zone under
45 this article.

46 (b) Distressed cities.--A city that is a distressed city
47 under the act of July 10, 1987 (P.L.246, No.47), known as the
48 Municipalities Financial Recovery Act, and is located in a home
49 rule county may not establish a contracting authority under this
50 article.

51 (c) Counties.--The home rule county where a distressed city

1 under the Municipalities Financial Recovery Act is located may
2 establish a contracting authority to designate a zone under this
3 article within the distressed city.

4 Section 1804-C. Approval.

5 (a) Submission.--A contracting authority may apply to the
6 Department of Community and Economic Development for approval of
7 a zone plan. The application must include all of the following:

8 (1) A plan to establish one or more facilities which
9 will promote economic development.

10 (2) An economic development plan.

11 (3) Specific information relating to the facility which
12 will be constructed, including infrastructure and site
13 preparation, reconstructed or renovated as part of the plan.

14 (4) Other information as required by the Department of
15 Community and Economic Development, the office or the
16 department.

17 (5) A designation of the specific geographic area,
18 including parcel numbers and a map of the zone with parcel
19 numbers, of which the zone will consist.

20 (b) Agencies.--The Department of Community and Economic
21 Development, the office and the department must approve each
22 application.

23 (c) Approval schedule.--The Department of Community and
24 Economic Development shall develop a schedule for the approval
25 of applications under this section as follows:

26 (1) Following the effective date of this paragraph,
27 applications for two initial zones may be approved.

28 (2) Beginning in 2016, applications for two additional
29 zones may be approved each calendar year.

30 (3) Following the effective date of this paragraph, the
31 Department of Community and Economic Development, the office
32 and the department, may approve one pilot zone.

33 (d) Time.--An application under this section shall be
34 approved or disapproved within 90 days of the postmark date of
35 submission. An application which is not disapproved within the
36 time period under this subsection shall be deemed to be
37 approved.

38 (e) Reapplication.--If an application is not approved under
39 this section, the applicant may revise the application and plan
40 and reapply for approval.

41 Section 1805-C. Exclusions.

42 A part of a zone may not include a keystone opportunity zone,
43 keystone opportunity expansion zone, keystone opportunity
44 improvement zone, keystone innovation zone, keystone special
45 development zone, neighborhood improvement zone or strategic
46 development area.

47 Section 1806-C. Functions of contracting authorities.

48 (a) Powers.--The contracting authority may do all of the
49 following:

50 (1) Designate a zone where a facility may be
51 constructed, including infrastructure and site preparation,

1 reconstructed or renovated.

2 (2) Provide or borrow money for any of the following
3 purposes:

4 (i) Development or improvement within a zone.

5 (ii) Construction, including infrastructure and site
6 preparation, reconstruction or renovation of a facility
7 within a zone which will result in economic development
8 in accordance with the contracting authority's plan.

9 (b) Money from fund.--A member of the contracting authority
10 may not receive money directly or indirectly from the fund.

11 Section 1807-C. Qualified businesses.

12 (a) List.--By June 1 following the end of the baseline year,
13 and for every year thereafter, each contracting authority shall
14 file with the department a complete list of all businesses
15 located in the zone and all construction contractors engaged in
16 construction, reconstruction or renovation of a facility in the
17 zone in the prior calendar year. The list shall include for each
18 business address, State tax identification number and parcel
19 number and a map of the zone with parcel numbers.

20 (b) Time.--If the list under subsection (a) is not timely
21 provided to the department, no eligible State tax shall be
22 certified by the department for the prior calendar year.

23 (c) Audit.--The contracting authority shall hire an
24 independent auditing firm to perform an annual audit verifying
25 all of the following:

26 (1) The correct amount of the eligible local tax was
27 submitted to the local taxing authorities.

28 (2) The local taxing authorities transferred the correct
29 amount of eligible local tax to the State Treasurer.

30 (3) The moneys transferred to the fund were properly
31 expended.

32 (4) Verify the correct amount was requested under
33 section 1812-C(c).

34 Section 1808-C. Funds.

35 (a) Notice.--Following the designation of a zone, the
36 contracting authority shall notify the State Treasurer.

37 (b) Establishment.--Upon receipt of notice under subsection
38 (a), the State Treasurer shall establish for each zone a special
39 fund for the benefit of the contracting authority to be known as
40 the City Revitalization and Improvement Zone Fund. Interest
41 income derived from investment of money in a fund shall be
42 credited by the State Treasury to the fund.

43 Section 1809-C. Reports.

44 (a) State zone report.--By June 15 following the baseline
45 year and each year thereafter, each qualified business shall
46 file a report with the department in a form or manner required
47 by the department which includes all of the following:

48 (1) Amount of each eligible tax which was paid to the
49 Commonwealth by the qualified business in the prior calendar
50 year.

51 (2) Amount of each eligible tax refund received from the

1 Commonwealth in the prior calendar year by the qualified
2 business.

3 (b) Local zone report.--By June 15 following the baseline
4 year and for each year thereafter, each qualified business shall
5 file a report with the local taxing authority which includes all
6 of the following:

7 (1) Amount of each eligible tax which was paid to the
8 local taxing authority by the qualified business in the prior
9 calendar year.

10 (2) Amount of each eligible tax refund received from the
11 local taxing authority in the prior calendar year by the
12 qualified business.

13 (c) Penalties.--

14 (1) Failure to file a timely and complete report under
15 subsection (a) or (b) may result in the imposition of a
16 penalty of the lesser of:

17 (i) ten percent of all eligible tax due the taxing
18 authority in the prior calendar year; or

19 (ii) one thousand dollars.

20 (2) A penalty for a violation of subsection (a) shall be
21 imposed, assessed and collected by the department under
22 procedures set forth in Article II. Money collected under
23 this paragraph shall be deposited in the General Fund.

24 (3) A penalty for a violation of subsection (b) shall be
25 imposed, assessed and collected by the political subdivision
26 under procedures for imposing penalties under local tax
27 collection laws.

28 (4) If a local taxing authority imposes the penalty, the
29 money shall be transferred to the State Treasurer for deposit
30 in the fund of the contracting authority.

31 Section 1810-C. Calculation of baseline.

32 (a) Baseline tax.--By October 15 following the end of the
33 baseline year and for each year thereafter, the department shall
34 verify the State baseline tax amount which consists of the
35 following:

36 (1) For qualified businesses that file timely zone State
37 reports under section 1809-C(a), the amount of eligible State
38 tax paid, less eligible State tax refunds.

39 (2) For qualified businesses not included under
40 paragraph (1) but located or partially located in the zone as
41 determined by the department or included in the information
42 received by the department under section 1809-C(a), the
43 amount of eligible State tax paid, less eligible State tax
44 refunds.

45 (b) Moves and noninclusions.--

46 (1) This subsection applies to a qualified business
47 that:

48 (i) moves into a zone from within this Commonwealth
49 after the baseline year; or

50 (ii) is in a zone but not included in the
51 calculation of the State baseline tax under subsection

1 (a).
2 (2) A qualified business subject to paragraph (1) shall
3 file a State zone report under section 1809-C following the
4 end of the first full calendar year in which the qualified
5 business conducted business in the zone and each calendar
6 year thereafter. The amount of eligible State tax verified by
7 the department for the qualified business for the prior
8 calendar year shall be added to the State baseline tax amount
9 for the zone for the prior calendar year and each year
10 thereafter.

11 (3) The calculation under this section may not include
12 the eligible taxes of a qualifying business moving into the
13 zone from outside this Commonwealth.

14 Section 1811-C. Certification.

15 (a) Amounts.--By the October 15 following the baseline year,
16 and each year thereafter, the department shall do all of the
17 following for the prior calendar year:

18 (1) Make the following calculation for qualified
19 businesses which file State zone reports under section 1809-
20 C(a), separately for each zone:

21 (i) Subtract:

22 (A) the amount of eligible State tax refunds
23 received; from

24 (B) the amount of eligible State tax paid.

25 (ii) Subtract:

26 (A) the State tax baseline amount for the zone;
27 from

28 (B) the difference under subparagraph (i).

29 (2) Certify to the office the difference under paragraph
30 (1)(ii).

31 (b) Content.--

32 (1) The certification may include the following:

33 (i) Adjustment made to timely filed zone reports by
34 the department for eligible State tax actually paid by a
35 qualified business in the prior calendar year.

36 (ii) Eligible State tax refunds paid to a qualified
37 business in the zone in a prior calendar year.

38 (iii) State tax penalties paid by a qualified
39 business in the prior year under section 1809-C(c).

40 (2) The certification shall not include the following:

41 (i) Tax paid by a qualified business that did not
42 file a timely State zone report under section 1809-C(a).

43 (ii) Tax paid by a qualified business whose tax was
44 not included in the State tax baseline amount calculation
45 under section 1810-C.

46 (iii) Tax paid by a qualifying business not
47 appearing on a timely filed list under section 1807-C(a).

48 (c) Submission.--The following shall apply:

49 (1) An entity collecting an eligible local tax within the
50 zone shall, by October 15 following the baseline year, and each
51 year thereafter, submit the following to the State Treasurer for

1 transfer to the fund:

2 (i) the eligible local tax collected in the prior
3 calendar year;

4 (ii) less the amount of eligible local tax refunds
5 issued in the prior calendar year; and

6 (iii) less the amount of local baseline tax for the
7 zone.

8 (2) The information under this subsection shall also be
9 certified by the local taxing authority to the Department of
10 Community and Economic Development, the office and the
11 department.

12 Section 1812-C. Transfers.

13 (a) Office.--Within ten days of receiving the certification
14 from the department under section 1811-C, the office shall
15 direct the State Treasurer to transfer the amount of certified
16 eligible State zone tax from the General Fund to each fund of a
17 contracting authority.

18 (b) State Treasurer.--Within ten days of receiving direction
19 under subsection (a), the State Treasurer shall pay into the
20 fund the amount directed under subsection (a) until bonds issued
21 to finance the construction, including related infrastructure
22 and site preparation, reconstruction or renovation of a facility
23 or other eligible project in the zone are retired.

24 (c) Notification.--The following shall apply:

25 (1) If the transfers under subsection (a) and section
26 1811-C(c) are insufficient to make payments on the bonds
27 issued under section 1813-C(a)(1) for the calendar year when
28 the transfers are made, the contracting authority shall
29 notify the Department of Community and Economic Development,
30 the office and the department of the amount of additional
31 money necessary to make payments on the bonds.

32 (2) The notification under paragraph (1) must be
33 accompanied by a detailed account of the contracting
34 authority's expenditures and the calculation which resulted
35 in the request for additional money. The Department of
36 Community and Economic Development, the office or the
37 department may request additional information from the
38 contracting authority and shall jointly verify the proper
39 amount of money necessary to make the payments on the bonds.

40 (3) Notwithstanding 53 Pa.C.S. § 5607(e), (relating to
41 purposes and powers), within 90 days of the date of the
42 notification request, the office shall direct the State
43 Treasurer to establish a restricted account within the
44 General Fund. The office shall direct the State Treasurer to
45 transfer the amount verified under paragraph (2) from the
46 General Fund to the restricted account for the use of the
47 contracting authority to make payments on the bonds issued
48 under section 1813-C(a)(1).

49 (4) Money transferred under paragraph (3):

50 (i) shall be limited to 50% of the State tax
51 baseline amount for the calendar year prior to the date

1 the amount is verified under paragraph (2), not to exceed
2 \$10,000,000; and

3 (ii) must occur in the first seven calendar years
4 following the baseline year.

5 (4.1) Under extraordinary circumstances, a contracting
6 authority may request money in excess of the limitations in
7 paragraph (4)(i). The Department of Community and Economic
8 Development, the office and the department shall determine
9 whether the circumstances merit additional money and the
10 amount to be transferred. The money shall be transferred
11 under the procedure under this section.

12 (5) Money transferred under paragraph (4) shall be
13 repaid to the General Fund by the contracting authority. If
14 money transferred under paragraph (3) is not repaid to the
15 General Fund by the contracting authority by the date of the
16 final payment on the bonds originally issued under section
17 1813-C(a)(1), the city or county which established the
18 contracting authority shall pay the money not repaid to the
19 General Fund plus an additional penalty of 10% of the amount
20 outstanding on the date of the final payment on the bonds
21 originally issued under section 1813-C(a)(1).

22 Section 1813-C. Restrictions.

23 (a) Utilization.--If the use was approved in an application
24 filed under section 1804-C, money transferred under section
25 1812-C may only be utilized for the following:

26 (1) Payment of debt service on bonds issued for the
27 construction, including related infrastructure and site
28 preparation, reconstruction or renovation of a facility in
29 the zone.

30 (2) Construction, including related infrastructure and
31 site preparation, reconstruction or renovation of all or a
32 part of a facility.

33 (3) Replenishment of amounts in debt service reserve
34 funds established to pay debt service on bonds.

35 (4) Employment of an independent auditing firm to
36 perform the duties under section 1807-C(c).

37 (5) Improvement or development of all or part of a zone.

38 (6) Improvement projects, including fixtures and
39 equipment for a facility owned by a public authority.

40 (b) Prohibition.--Money transferred under section 1812-C may
41 not be utilized for maintenance or repair of a facility.

42 (c) Excess money.--

43 (1) If the amount of money transferred to the fund under
44 sections 1811-C(c) and 1812-C in any one calendar year
45 exceeds the money utilized under this section in that
46 calendar year, the contracting authority shall submit by
47 January 15 following the end of the calendar year the excess
48 money to the State Treasurer for deposit into the General
49 Fund.

50 (2) At the time of submission to the State Treasurer,
51 the contracting authority shall submit to the State

1 Treasurer, the office and department a detailed accounting of
2 the calculation resulting in the excess money.

3 (3) The excess money shall be credited to the
4 contracting authority and applied to the amount required to
5 be repaid under section 1812-C(c)(5) until there is full
6 repayment.

7 (d) Matching funds.--

8 (1) The amount of money transferred from the fund
9 utilized for the construction, including related site
10 preparation and infrastructure, reconstruction or renovation
11 of facilities shall be matched by private money at a ratio of
12 five fund dollars to one private dollar.

13 (2) By April 1, following the baseline year and for each
14 year thereafter, the contracting authority shall file an
15 annual report with the Department of Community and Economic
16 Development, the office and the department that contains
17 detailed account of the fund money expenditures and the
18 private money expenditures and a calculation of the ratio in
19 paragraph (1) for the prior calendar year. The agencies shall
20 determine whether sufficient private money was utilized.

21 (3) If it is determined that insufficient private money
22 was utilized under paragraph (1), the amount of fund money
23 utilized under paragraph (1) in the prior calendar year shall
24 be deducted from the next transfer of the fund.

25 Section 1814-C. Transfer of property.

26 (a) Property.--Portions of a zone where a facility has not
27 been constructed, reconstructed or renovated using money under
28 this article may be transferred out of the zone. Additional
29 acreage, not to exceed the acreage transferred out of the zone,
30 may be added to the zone.

31 (b) Approval.--A transfer under subsection (a) must be
32 approved by the Department of Community and Economic
33 Development, in consultation with the office and the department.
34 Section 1815-C. Duration.

35 A zone shall be in effect for a period equal to the length of
36 time for the repayment of debt incurred for the zone, including
37 bonds issued. Bonds shall be paid, and all zones shall cease no
38 later than 30 years following the initial issuance of the bonds.

39 Section 1816-C. Commonwealth pledges.

40 (a) Pledge.--If and to the extent the contracting authority
41 pledges amounts required to be transferred to its fund under
42 section 1812-C for payment of bonds issued by the contracting
43 authority, until all bonds secured by the pledge of the
44 contracting authority, together with interest on the bonds, are
45 fully paid or provided for, the Commonwealth pledges to and
46 agrees with any person, firm, corporation or government agency,
47 in this Commonwealth or elsewhere, and pledges to and agrees
48 with any Federal agency subscribing to or acquiring the bonds of
49 the contracting authority that the Commonwealth itself will not,
50 nor will it authorize any government entity to, do any of the
51 following:

1 (1) Abolish or reduce the size of the zone.

2 (2) Amend or repeal section 1810-C or 1811-C ????.

3 (3) Limit or alter the rights vested in the contracting
4 authority in a manner inconsistent with the obligations of
5 the contracting authority with respect to the bonds issued by
6 the contracting authority.

7 (4) Impair revenue to be paid under this article to the
8 contracting authority necessary to pay debt service on bonds.

9 (b) Limitation.--Nothing in this section shall limit the
10 authority of the Commonwealth or a political subdivision
11 government entity to change the rate, base or subject of a
12 specific tax or to repeal or enact any tax.
13 Section 1817-C. Confidentiality.

14 (a) Sole use.--A zone report or certification under this
15 article shall only be used by the contracting authority to
16 verify the amount of the State tax baseline amount calculated
17 under section 1810-C and State tax certification under section
18 1811-C.

19 (b) Prohibition.--Use of a zone report other than as set
20 forth in subsection (a) is prohibited and shall be subject to
21 the law applicable to the confidentiality of tax records.
22 Section 1818-C. Guidelines.

23 By October 31, 2013, the Department of Community and Economic
24 Development, the office and the department shall develop and
25 publish guidelines necessary to implement this article.