

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 944 Session of
2015

INTRODUCED BY TAYLOR, KOTIK, O'BRIEN, GODSHALL, KILLION,
A. HARRIS, W. KELLER, DRISCOLL, MURT, WATSON, THOMAS AND
NEILSON, APRIL 15, 2015

SENATOR WARD, COMMUNITY, ECONOMIC AND RECREATIONAL DEVELOPMENT,
IN SENATE, AS AMENDED, FEBRUARY 9, 2016

AN ACT

1 Amending the act of December 21, 1998 (P.L.1307, No.174),
2 entitled "An act relating to cities of the first class,
3 establishing Neighborhood Improvement Districts; conferring
4 powers and duties on municipal corporations and Neighborhood
5 Improvement Districts; and providing for annual audits and
6 for tourism and marketing," further providing for
7 definitions, for powers of municipal corporations, for
8 creation of neighborhood improvement districts, for creation
9 of neighborhood improvement district management associations,
10 for powers of neighborhood improvement district management
11 associations, for annual audit and report and for
12 applicability.

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

15 Section 1. Section 3 of the act of December 21, 1998
16 (P.L.1307, No.174), known as the Community and Economic
17 Improvement Act, is amended by adding ~~a definition~~ DEFINITIONS <--
18 to read:

19 Section 3. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Affected property owner." An owner of real property located <--
3 in a neighborhood improvement district upon which A PROPERTY <--
4 OWNER WITH RESPECT TO WHOM a special assessment fee is proposed
5 to be or has been levied as authorized by this act.

6 * * *

7 "CURB MARKET STAND." A STAND AT WHICH MERCHANDISE MAY BE <--
8 SOLD AND THAT IS LOCATED IN A ROADWAY ABUTTING A CURB AT A
9 LOCATION DESIGNATED BY A MUNICIPALITY.

10 * * *

11 "PROPERTY OWNER." AN OWNER OF REAL PROPERTY OR THE HOLDER OF
12 A LICENSE TO OPERATE A CURB MARKET STAND WHICH PROPERTY OR STAND
13 IS LOCATED IN A NEIGHBORHOOD IMPROVEMENT DISTRICT OR PROPOSED
14 NEIGHBORHOOD IMPROVEMENT DISTRICT.

15 * * *

16 Section 2. Section 4(6) of the act is amended to read:

17 Section 4. Powers of municipal corporation.

18 Every municipal corporation shall have the power:

19 * * *

20 (6) To acquire, by gift[, purchase or eminent domain,]
21 or purchase, land, real property or rights-of way which may
22 be needed for the purposes of making physical improvements
23 within the NID.

24 * * *

25 Section 3. Section 5(b), (c)(2)(v) and (3)(vii), (d), (e),
26 (f) and (g)(1), (2) and (3) of the act are amended and the
27 section is amended by adding a subsection to read:

28 Section 5. Creation of neighborhood improvement district.

29 * * *

30 (b) Specific procedures.--

1 (1) A copy of [everything required under this section]
2 the preliminary plan or any revised plan with respect to
3 which a public hearing must be held under this act, as well
4 as the date, location and time of any public hearing required
5 by this act, shall be provided by the municipal corporation
6 to all affected property owners and lessees of affected
7 property owners [located in the proposed NID] at least 30
8 days prior to [the first] any public hearing required by this
9 section.

10 (2) At least one public hearing[, no earlier than 15
11 days apart,] for the purpose of receiving public comment on
12 the proposed NIDP from affected property owners [within the
13 proposed NID, on the proposed NIDP,] shall be held by the
14 municipality before the establishment of an NID. Notice of
15 the hearing shall be provided in accordance with paragraph
16 (1) and shall be advertised at least ten days prior thereto
17 in a newspaper of general circulation in the municipality.

18 [(3) Any objections by property owners within the
19 proposed NID must be made in writing by persons representing
20 the ownership of 51%, in numbers, of the benefited properties
21 within the NID or by property owners within the proposed NID
22 whose property valuation as assessed for taxable purposes
23 shall amount to 51% of the total property valuation within
24 the NID. Objections must be signed by the property owner and
25 filed in the office of the clerk for the governing body of
26 the municipality in which the NID is proposed.]

27 (4) If revisions, other than technical revisions, are
28 made to the preliminary plan or a revised preliminary plan, a
29 public hearing shall be held for the purpose of receiving
30 public comment on the revisions with notice and advertising

1 provided in accordance with paragraphs (1) and (2).

2 (5) Objections to the proposed NID may be filed by
3 affected property owners within the NID. Objections shall be
4 in writing, signed by the property owner, identify the
5 address of any property for which objection is being made and
6 be filed in the office of the clerk for the governing body of
7 the municipality in which the NID is proposed at any time no
8 more than 45 days after the hearing held on the final plan.

9 (6) An objection filed in connection with a preliminary
10 plan or a revised preliminary plan shall constitute an
11 objection to the final plan, unless such objection is
12 withdrawn in writing by the objector.

13 (7) The filing of objection by:

14 (i) affected property owners representing the
15 ownership of at least one-third of the properties owned
16 by affected property owners within the NID;

17 (ii) affected property owners within the NID, the
18 value of whose properties, as assessed for taxable
19 purposes, amounts to at least one-third of the total
20 property valuation of property owned by affected property
21 owners within the NID,

22 shall prohibit the establishment of A proposed NID. <--

23 (8) (I) FOR PURPOSES OF PARAGRAPH (7) (I), THE HOLDING <--
24 OF A LICENSE TO OPERATE A CURB MARKET STAND THAT BRINGS
25 THE PERSON WITHIN THE DEFINITION OF A PROPERTY OWNER
26 UNDER THIS ACT SHALL BE CONSIDERED OWNERSHIP OF A
27 PROPERTY.

28 (II) FOR PURPOSES OF PARAGRAPH (7) (II), IN ORDER TO
29 DETERMINE THE VALUE ASSOCIATED WITH THE HOLDER OF A
30 LICENSE TO OPERATE A CURB MARKET STAND AND THE IMPACT ON

1 THE TOTAL PROPERTY VALUATION OF PROPERTY OWNED BY
2 AFFECTED PROPERTY OWNERS WITHIN THE NID, THE VALUE OF THE
3 LICENSE TO OPERATE A CURB MARKET STAND SHALL BE EQUAL TO
4 A PORTION OF THE AVERAGE TAX ASSESSMENT VALUE OF REAL
5 PROPERTY OWNED BY AFFECTED PROPERTY OWNERS WITHIN THE
6 DISTRICT. THE PORTION SHALL BE DETERMINED BY MULTIPLYING
7 THAT AVERAGE TAX ASSESSMENT VALUE BY THE RATIO OF THE
8 PROPOSED AMOUNT OF THE NID ASSESSMENT ON CURB MARKET
9 STAND LICENSE HOLDERS IN RELATION TO THE PLANNED NID
10 ASSESSMENT FOR A PARCEL OF REAL PROPERTY WITH A TAX
11 ASSESSMENT VALUE EQUAL TO THE AVERAGE OF TAX ASSESSMENT
12 VALUES OF REAL PROPERTY OWNED BY AFFECTED PROPERTY OWNERS
13 WITHIN THE DISTRICT.

14 (c) Contents of preliminary plan.--The plan shall include
15 the following:

16 * * *

17 (2) A written report from the municipality containing:

18 * * *

19 (v) A proposed budget for [the first fiscal year]
20 each year of proposed operation of the NID covered by the
21 NIDP, including, but not limited to, the following:
22 personnel and administration, programs and services,
23 maintenance and operation, and capital expenditures.

24 * * *

25 (3) In addition, the plan shall also:

26 * * *

27 (vii) [Provide that a negative vote of at least 51%
28 of the property owners within the NID or property owners
29 within the NID whose property valuation as assessed for
30 taxable purposes amounts to 51% of the total property

1 valuation located within the NID proposed in the final
2 plan shall be required to defeat the establishment of the
3 proposed NID by filing objections with the clerk for the
4 governing body of the municipality within 45 days of
5 presentation of the final plan where the governing body
6 of municipality is inclined to establish the NID.] Set
7 fourth the provisions of subsection (b) (4).

8 (d) [Final plan.--Prior to the establishment of an NID, the
9 municipality shall submit a revised final plan to property
10 owners located within the proposed NID which incorporates
11 changes made to the plan based on comments from affected
12 property owners within the NID provided at the public hearings
13 or at some other time. Changes to the final plan which differ
14 from the preliminary plan] Plan revisions.--Revisions to a
15 preliminary plan or a revised preliminary plan shall [also] be
16 [so] indicated in an easily discernible method for the reader,
17 including, but not limited to, changes being in boldfaced or
18 italicized type.

19 [(e) Public hearing.--At least one public hearing for the
20 purpose of receiving public comment on any revisions to the
21 preliminary plan made following suggestions by affected property
22 owners within the proposed NID and reflected in the final NIDP
23 shall be held by the municipal corporation before enacting an
24 ordinance establishing an NID. Notice of the hearing shall be
25 advertised at least ten days prior thereto in a newspaper of
26 general circulation in the municipality.

27 (f) Veto of final plan for NID.--

28 (1) Following the last public hearing required under
29 subsection (e) or under subsection (g) if an amendment to the
30 final plan, affected property owners located within a

1 proposed NID shall have 45 days from the date of the hearing
2 to object to and disapprove the final plan or any amendment
3 to the final plan under the requirements of subsection (b)
4 (3).

5 (2) If 51% or more of the affected property owners or
6 property owners whose property valuation as assessed for
7 taxable purposes amounts to 51% of the total property
8 valuation within the proposed NID fail to register their
9 disapproval of the final plan or amendment to the final plan
10 in writing with the clerk of the governing body of the
11 municipality in which the NID is proposed, the governing body
12 of the municipality may, following the 45-day period, enact a
13 municipal ordinance establishing an NID under this act or, in
14 the case of an amendment to the final plan, adopt any
15 amendments to the ordinance.]

16 (f.1) Approval of final plan for NID.--If fewer than the
17 number of objections needed under this section to prohibit
18 adoption of an NIDP or an amendment to an NIDP are received by
19 the clerk of the governing body of the municipality within 45
20 days after a hearing on the final plan, the governing body of
21 the municipality may, following the 45-day period, enact a
22 municipal ordinance establishing an NID under this act or, in
23 the case of an amendment to final plan, adopt any amendments to
24 the ordinance.

25 (g) Amendments to final plan.--

26 (1) The final plan may be amended by the NIDMA any time
27 after the establishment of an NID, [pursuant to the
28 provisions of this act,] upon the recommendation of the NIDMA
29 board, provided [there is concurrence with the owners of at
30 least 51% of the assessed valuation of all property within

1 the NID or 51% of the property owners within the NID.] the
2 NIDMA board notifies in writing affected property owners of
3 any amendment and the property owners' right to file
4 objections to the amendment with the chief clerk of the
5 governing body of the municipality. If, within 45 days of
6 notification, affected property owners representing the
7 ownership of at least one-third of the affected properties
8 within the NID or affected property owners within the NID
9 whose property valuation, as assessed for taxable purposes,
10 amounts to one-third of the total property valuation of
11 affected property owners within the NID file objections to
12 the amendment with the chief clerk of the governing body of
13 the municipality, the plan shall not be amended.

14 (2) [Amendments] The following amendments to the final
15 plan [which] also require, in addition to the requirements of
16 paragraph (1), the approval of the governing body of the
17 municipality establishing the NID [include]:

18 (i) Substantially changed or added programs,
19 improvements and/or services to be provided in the NID.

20 (ii) [Increased expenditures affecting more than 25%
21 of the total NIDMA budget for the fiscal year.] Increases
22 in the budget for any year with respect to which a budget
23 has been approved in an NIDP approved by the governing
24 body.

25 (iii) Incurring increased indebtedness.

26 (iv) Changing the assessment fee structure levied on
27 property owners in the NID.

28 (v) Changing the legal entity (NIDMA) which provides
29 programs, improvements and services within the NID.

30 (vi) Changing the NID service area boundary.

1 Prior to the governing body of the municipality approving any
2 of the changes in this paragraph, the governing body shall
3 hold at least one public hearing to determine that such
4 changes are in the public interest as it relates to affected
5 property owners within the NID.

6 (3) The municipality shall provide public notice of the
7 hearing for any amendments requiring approval of the
8 governing body by publication of a notice in at least one
9 newspaper having a general circulation in the NID, specifying
10 the time and the place of such hearing and the amendments to
11 be considered. This notice shall be published once at least
12 10 days prior to the date of the hearing.

13 * * *

14 Section 4. Sections 6(b) and (d) (3), 7(b) (2), 9 and 12(c),
15 (d) and (e) of the act are amended to read:

16 Section 6. Creation of neighborhood improvement district
17 management association.

18 * * *

19 (b) Administration.--

20 [(1)] NIDs created pursuant to this act shall be
21 administered by an NIDMA which shall be an authority created
22 pursuant to the act of May 2, 1945 (P.L.382, No.164), known
23 as the Municipality Authorities Act of 1945, an existing
24 nonprofit development corporation, an existing nonprofit
25 corporation or a nonprofit development corporation or
26 nonprofit corporation established by the governing body or
27 authorized to be established by the governing body of the
28 municipality in which the NID is to be located, to administer
29 the NIDP.

30 [(2) If an active nonprofit development corporation

1 already exists within the geographic boundaries of the NID
2 and formally indicates its interest to the governing body of
3 the municipality to become the designated NIDMA, the
4 governing body of the municipality shall grant that request
5 unless 51% or more of the affected property owners or
6 property owners whose property valuation as assessed for
7 taxable purposes amounts to 51% of the total property
8 valuation within the proposed NID register their disapproval
9 of this designation in writing with the clerk of the
10 governing body within a 45-day period following the formal
11 written request for designation by the nonprofit development
12 corporation to become the NIDMA.]

13 * * *

14 (d) Board.--Every NIDMA shall have an administrative board.

15 * * *

16 (3) Where a nonprofit development corporation or other
17 nonprofit corporation is established to serve as the NIDMA
18 for an NID, the board shall be comprised of an odd number of
19 members, between five and [nine] fifteen, with at least one
20 member representing the municipal corporation in which the
21 NID is located.

22 * * *

23 Section 7. Powers of neighborhood improvement district
24 management association.

25 * * *

26 (b) Assessments.--

27 * * *

28 [(2) All assessments authorized under this section shall
29 be calculated using January 1 as the first day of the fiscal
30 year.]

1 * * *

2 Section 9. Annual audit; report.

3 The NIDMA shall annually:

4 (1) submit an audit of all income and expenditures to
5 the Department of Community and Economic Development [and],
6 the governing body of the municipality in which the NID is
7 located and any other municipal department, designated by the
8 NID ordinance, within 120 days after the end of each fiscal
9 year; and

10 (2) submit a report, including financial and
11 programmatic information, including a summary of audit
12 findings, to the governing body of the municipality in which
13 the NID is located [and], to all assessed property owners
14 located in the NID and to any other municipal department,
15 designated by the NID ordinance, within 120 days after the
16 end of each fiscal year.

17 Section 12. Applicability.

18 * * *

19 [(c) Districts created subsequently.--Any NID established
20 subsequent to the effective date of this act shall be governed
21 by the provisions of this act.

22 (d) Previously terminated districts.--Any business
23 improvement district or downtown improvement district in
24 existence prior to the effective date of this act which is
25 terminated shall, upon its reestablishment, be governed by the
26 provisions of this act. This shall include any termination
27 resulting from a sunset provision in any municipal agreement or
28 ordinance.]

29 (e) [Additional requirements.--] Requirements.--A business
30 improvement district may be established or continued pursuant to

1 provisions of this act or the provisions of the Municipality
2 Authorities Act of 1945, insofar as it relates to business
3 improvement districts. Any business improvement district or
4 downtown improvement district [in existence on the effective
5 date of this act shall:

6 (1) be required to carry out any duty or responsibility
7 imposed on NIDs under this act; and

8 (2)] established under the Municipality Authorities Act
9 of 1945, insofar as it relates to business improvement
10 districts, shall possess any additional power given to NIDs
11 under this act without having to restructure or reorganize
12 under this act.

13 Section 5. This act shall take effect in 60 days.