

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2439 Session of
1992

INTRODUCED BY McNALLY AND TRELLO, MARCH 9, 1992

REFERRED TO COMMITTEE ON FINANCE, MARCH 9, 1992

AN ACT

1 Amending the act of July 11, 1990 (P.L.465, No.113), entitled
2 "An act providing for the creation of tax increment
3 districts; providing for additional powers and duties to be
4 exercised by redevelopment authorities and by industrial and
5 commercial development authorities; authorizing the creation
6 and approval of project plans for tax increment financing;
7 providing for the establishment of a tax increment base;
8 allocating the payment of positive tax increments; providing
9 for the financing of project costs; and providing for the
10 issuance of tax increment bonds and notes," further providing
11 for certain definitions, for project plans, for the tax
12 increment base and for certain regulations.

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

15 Section 1. The definitions of "project costs," "tax
16 increment" and "tax increment base" in section 3 of the act of
17 July 11, 1990 (P.L.465, No.113), known as the Tax Increment
18 Financing Act, are amended 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
22 context clearly indicates otherwise:

1 * * *

2 "Project costs." Any expenditures made or estimated to be
3 made or monetary obligations incurred or estimated to be
4 incurred which are listed in a project plan as costs of public
5 works or improvements or residential, commercial or industrial
6 development or revitalization within a tax increment district,
7 plus any costs incidental thereto. Project costs include, but
8 are not limited to:

9 (1) Capital costs, including the actual costs of the
10 construction of public works or improvements, or residential,
11 commercial or industrial development or revitalization, new
12 buildings, structures and fixtures; the demolition,
13 alteration, remodeling, repair or reconstruction of existing
14 buildings, structures and fixtures; the acquisition, upgrade
15 or rehabilitation of machinery and equipment; and the
16 acquisition, clearing and grading of land. Capital costs also
17 include the actual cost of the construction, rehabilitation
18 or repair of publicly owned infrastructure improvements
19 located outside the boundaries of a tax increment district
20 which are of direct benefit to a project.

21 (2) Financing costs, including all costs of issuance of
22 tax increment bonds or notes, reserve funds for tax increment
23 bonds or notes, all interest paid to holders of evidences of
24 indebtedness issued to pay for project costs, and any premium
25 paid over the principal amount thereof because of the
26 redemption of such obligations prior to maturity.

27 (3) Real property assembly costs, meaning any deficit
28 incurred resulting from the sale or lease as lessor by the
29 authority of real property within a tax increment district
30 for consideration which is less than its cost to the

1 authority.

2 (4) Professional service costs, including those costs
3 incurred for architectural, planning, engineering and legal
4 advice and services.

5 (5) Administrative costs, including reasonable charges
6 for the time spent by employees of a municipality or an
7 authority in connection with the implementation of a project
8 plan.

9 (6) Relocation costs.

10 (7) Organizational costs, including the costs of
11 conducting environmental impact and other studies and the
12 costs of informing the public with respect to the creation of
13 tax increment districts and the implementation of project
14 plans.

15 (8) Costs which are found to be necessary or convenient
16 to the creation of tax increment districts or the
17 implementation of project plans, or for the reimbursement of
18 prior expenditures made for any of the costs under this
19 definition.

20 * * *

21 "Tax increment." Generally, the incremental tax revenues,
22 determined with reference to the tax increment base, resulting
23 from the increase in property values or from the increase in
24 [sales] commercial activity as a result of a project. More
25 specifically, the term includes the following:

26 [(1) The tax levied on property situated in, or
27 otherwise assignable for the purposes of property taxation
28 to, a tax increment district to the extent that such tax is
29 attributable to an excess of the aggregate taxable valuation
30 as of the tax increment base date. The portion of the tax

1 levy attributable to the increased valuation after the tax
2 increment base date shall be calculated using the same
3 factors as were used as of the base date or without these
4 factors if property was not classified for tax purposes as of
5 the base date.]

6 (1) The incremental tax revenues resulting from an
7 increase in the total market value of taxable real property
8 situated in a tax increment district and an increase in the
9 business use and occupancy of such taxable real property.
10 This paragraph applies only to ad valorem taxes on real
11 property and tax imposed by the governing body on the use and
12 occupancy of real property.

13 (2) The payment in lieu of taxes assigned to or agreed
14 to be paid by governmental entities or nonprofit
15 organizations with property situated or otherwise assignable
16 to a tax increment district. Whether all or only a portion of
17 this payment is to be considered part of the tax increment
18 shall be determined at the time the tax increment district is
19 created.

20 [(3) The tax paid on the sale or use of tangible
21 personal property within the tax increment district. Whether
22 all or only a portion of this tax is to be considered part of
23 the tax increment shall be determined at the time the tax
24 increment district is created. This paragraph applies only to
25 a sales or use tax levied by a governing body.]

26 (3) The incremental tax revenues resulting from an
27 increase in total taxable sales and rentals of tangible
28 personal property and in the rendition of taxable services by
29 vendors located in a tax increment district. This paragraph
30 applies only to a sales tax levied by a governing body.

1 (4) The incremental tax revenues resulting from an
2 increase in total gross receipts or gross or net profits or
3 income realized by persons or entities from business
4 conducted in a tax increment district. This paragraph applies
5 only to a mercantile license tax, business privilege tax or
6 similar tax levied by a governing body for the privilege of
7 engaging in business.

8 ["Tax increment base." The aggregate value of all taxable
9 property located within a tax increment district on the date the
10 district is created, as determined in accordance with section
11 6.]

12 "Tax increment base." The term means one or more of the
13 following, as appropriate:

14 (1) The aggregate market value of all taxable real
15 property located within a tax increment district on the date
16 the district is created.

17 (2) In a district where the governing body has levied a
18 tax on the business use and occupancy of real estate, the
19 average aggregate market value of real property located
20 within the district and used or occupied for business
21 purposes during the last available 12-month period preceding
22 the date of creation of the district.

23 (3) In a district where the governing body has levied a
24 sales tax, the total amount of taxable sales, rentals and
25 services subject to the sales tax of the Commonwealth and
26 occurring within the district during the last calendar year
27 or the last available 12-month period preceding the date of
28 creation of the district.

29 (4) In a district where the governing body has levied a
30 mercantile license tax, business privilege tax, net profits

1 tax or similar tax for the privilege of engaging in business
2 within the district, the total amount of taxable gross
3 receipts, net income or net profits, as the case may be,
4 realized by taxpayers at locations within the district during
5 their last taxable period which ended before the date of
6 creation of the district.

7 * * *

8 Section 2. Sections 5(4) and (6), 6(b) and 7(a) of the act
9 are amended to read:

10 Section 5. Creation of tax increment districts and approval of
11 project plans.

12 A tax increment district shall be created in the following
13 manner:

14 * * *

15 (4) The authority shall prepare a project plan for each
16 tax increment district and submit the plan to the governing
17 body of the municipality which will create the district and
18 to the governing body of any other municipality or school
19 district that levies property taxes within the boundaries of
20 the proposed district. The plan shall include the following:

21 (i) A statement listing the kind, number and
22 location of all proposed public works or improvements
23 [within the district], including all residential,
24 commercial or industrial development and revitalization
25 improvements.

26 (ii) An economic feasibility study of the project
27 and the fiscal effects on the municipal tax base.

28 (iii) A detailed list of estimated project costs.

29 (iv) A description of the methods of financing all
30 estimated project costs and the time when related costs

1 or monetary obligations are to be incurred.

2 (v) A map showing existing uses and conditions of
3 real property in the district.

4 (vi) A map showing proposed improvements and uses
5 therein.

6 (vii) Proposed changes of any zoning ordinance,
7 master plan, map, building code or ordinance.

8 (viii) A list of estimated nonproject costs.

9 (ix) A statement of a proposed method for the
10 relocation of families, persons and businesses to be
11 temporarily or permanently displaced from housing or
12 commercial facilities in the project area by
13 implementation of the plan.

14 * * *

15 (6) In order to create a district and adopt a project
16 plan, the governing body of the municipality which will
17 create the tax increment district shall adopt, not earlier
18 than three weeks after the public hearing described in
19 paragraph (5) has been held, a resolution or ordinance which:

20 (i) Describes the boundaries of a tax increment
21 district with sufficient definiteness to identify with
22 ordinary and reasonable certainty the territory included.
23 The governing body shall take care that the boundaries
24 include only those whole units of property assessed for
25 general property tax purposes.

26 (ii) Creates the district as of a given date. A tax
27 increment district may exist for a period not to exceed
28 20 years, unless an amendment is made to the project plan
29 under paragraph (8).

30 (iii) Assigns a name to the district for

1 identification purposes.

2 (iv) Contains findings that, among other things:

3 (A) The district is a contiguous geographic area
4 within a redevelopment area.

5 (B) The improvement of the area is likely to
6 enhance significantly the value of substantially all
7 of the other real property in the district. It is not
8 necessary to identify the specific parcels meeting
9 this criterion.

10 (C) The aggregate value of equalized taxable
11 property of the district, plus all existing tax
12 increment districts, does not exceed 10% of the total
13 value of equalized taxable property within the
14 municipality.

15 (D) The area comprising the district as a whole
16 has not been subject to adequate growth and
17 development through investment by private enterprise
18 [and] or would not reasonably be anticipated to be
19 adequately developed or further developed without the
20 adoption of the plan.

21 (E) A feasible method exists for the
22 compensation of individuals, families and small
23 businesses that will be displaced by the project and
24 for their relocation to decent, safe and sanitary
25 dwelling accommodations within their means, without
26 undue hardship to such individuals, families and
27 businesses.

28 (F) The project plan conforms to the municipal
29 or county master plan, if any.

30 (G) The project plan will afford maximum

1 opportunity, consistent with the sound needs of the
2 community as a whole, for the rehabilitation or
3 redevelopment of the tax increment district by
4 private enterprise.

5 (H) The district is a blighted area containing
6 characteristics of blight as described in the Urban
7 Redevelopment Law and the project to be undertaken is
8 necessary to eliminate such conditions of blight[.]
9 or, in the alternative, conditions exist such that
10 the district exhibits indications of incipient blight
11 or the potential for blight and the project is
12 necessary to prevent the area from becoming a
13 blighted area.

14 * * *

15 Section 6. Determination of tax increment and tax increment
16 base.

17 * * *

18 (b) Determination of base.--Upon application in writing by
19 the finance officer of the municipality which created the
20 district, the assessor for that municipality shall determine,
21 according to its best judgment from all sources available to it,
22 the full aggregate market value of the taxable property in the
23 district[, which aggregate valuation constitutes the tax
24 increment base of the district.] as of the date on which the
25 district was created. In a district where a sales tax is levied
26 by the governing body and in which positive tax increments
27 therefrom are to be a part of the project plan, the Department
28 of Revenue shall furnish the finance officer upon request the
29 amount of taxable sales, rentals and services of taxpayers
30 within the district for the last calendar year or the last

1 available 12-month period to which the sales tax of the
2 Commonwealth is then applicable. Notwithstanding the foregoing,
3 the finance officer of the municipality may determine the sales
4 tax base or any other tax increment base contemplated hereby in
5 any manner which is reasonable and prudent and meets sound
6 business practice.

7 * * *

8 Section 7. Allocation of positive tax increments.

9 (a) Allocation of positive tax increments.--Positive tax
10 increments of a tax increment district shall be allocated to the
11 issuing authority for each year from the date when the district
12 is created until that time, after the completion of all [public]
13 improvements specified in the plan or amendments thereto, when
14 the issuing authority has received aggregate tax increments of
15 the district in an amount equal to the aggregate of all
16 expenditures made or monetary obligations incurred for project
17 costs for the district, including the payment of tax increment
18 bonds or notes.

19 * * *

20 Section 3. The act is amended by adding a section to read:

21 Section 9.1. Rules and regulations.

22 The Secretary of Commerce shall, in the manner provided by
23 law, promulgate the rules and regulations necessary to carry out
24 this act. These regulations shall not apply to projects
25 commenced prior to the effective date of this section.

26 Section 4. This act shall take effect immediately.