

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1599 Session of  
2012

INTRODUCED BY SMUCKER, WAUGH, YUDICHAK AND PILEGGI,  
OCTOBER 2, 2012

REFERRED TO FINANCE, OCTOBER 2, 2012

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,  
2 as amended, "An act relating to the finances of the State  
3 government; providing for the settlement, assessment,  
4 collection, and lien of taxes, bonus, and all other accounts  
5 due the Commonwealth, the collection and recovery of fees and  
6 other money or property due or belonging to the Commonwealth,  
7 or any agency thereof, including escheated property and the  
8 proceeds of its sale, the custody and disbursement or other  
9 disposition of funds and securities belonging to or in the  
10 possession of the Commonwealth, and the settlement of claims  
11 against the Commonwealth, the resettlement of accounts and  
12 appeals to the courts, refunds of moneys erroneously paid to  
13 the Commonwealth, auditing the accounts of the Commonwealth  
14 and all agencies thereof, of all public officers collecting  
15 moneys payable to the Commonwealth, or any agency thereof,  
16 and all receipts of appropriations from the Commonwealth,  
17 authorizing the Commonwealth to issue tax anticipation notes  
18 to defray current expenses, implementing the provisions of  
19 section 7(a) of Article VIII of the Constitution of  
20 Pennsylvania authorizing and restricting the incurring of  
21 certain debt and imposing penalties; affecting every  
22 department, board, commission, and officer of the State  
23 government, every political subdivision of the State, and  
24 certain officers of such subdivisions, every person,  
25 association, and corporation required to pay, assess, or  
26 collect taxes, or to make returns or reports under the laws  
27 imposing taxes for State purposes, or to pay license fees or  
28 other moneys to the Commonwealth, or any agency thereof,  
29 every State depository and every debtor or creditor of the  
30 Commonwealth," providing for City Revitalization and  
31 Improvement Zones.

32 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. The act of April 9, 1929 (P.L.343, No.176), known  
3 as The Fiscal Code, is amended by adding an article to read:

4 ARTICLE XVI-D.2

5 CITY REVITALIZATION AND IMPROVEMENT ZONES

6 Section 1601-D.2. Scope of article.

7 This article relates to City Revitalization and Improvement  
8 Zones.

9 Section 1602-D.2. Definitions.

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

13 "City." A city of the third class with a population of at  
14 least 40,000 and not more than 70,000 based on the most recent  
15 Federal decennial census.

16 "City Revitalization and Improvement Zone." A revitalization  
17 improvement zone designated by the contracting authority for the  
18 purpose of improvement and development within a city.

19 "Contracting authority." An authority established under 53  
20 Pa.C.S. Ch. 56 (relating to municipal authorities) for the  
21 purpose of designating revitalization zones and constructing  
22 facilities or other authority established under the laws of this  
23 Commonwealth.

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

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

1 "Facility." A structure to be used for commercial,  
2 exhibition, hospitality, conference, retail, community,  
3 recreational or mixed-use purposes. The term includes a park.

4 "Fund." The City Revitalization and Improvement Fund  
5 established under section 1604-D.2.

6 "Qualified business." An entity which meets all of the  
7 following:

8 (1) Is authorized to conduct business in this  
9 Commonwealth.

10 (2) Is located or partially located in a zone.

11 (3) Is engaged in the active conduct of a trade or  
12 business for the taxable year. An agent, broker or  
13 representative of a business shall not be considered to be in  
14 the active conduct of trade or business for the business.

15 "Zone." A City Revitalization and Improvement Zone.  
16 Section 1603-D.2. Facility.

17 The contracting authority may do the following:

18 (1) Designate one or more zones of not greater than 100  
19 acres in total in which a facility may be constructed or  
20 redeveloped.

21 (2) Provide for or borrow funds for the purpose of:

22 (i) improvement and development within the zone;

23 (ii) construction or improvement of a facility  
24 within the zone; or

25 (iii) redevelopment of a facility in existence prior  
26 to January 1, 2012.

27 Section 1604-D.2. Fund.

28 (a) Establishment.--There is established in the State  
29 Treasury a special fund known as the City Revitalization and  
30 Improvement Fund. Interest income derived from investment of the

1 money in the fund shall be credited by the Treasury Department  
2 to the fund.

3 (b) Calculation.--

4 (1) Within 60 days of the end of each quarter, the  
5 department shall calculate the amounts under this subsection  
6 for improvement, development and revitalization in each zone.

7 (2) The contracting authority shall provide good faith  
8 estimates of quarterly amounts to be calculated in a form and  
9 manner prescribed by the department.

10 (3) The department shall estimate the quarterly amounts,  
11 subject to an annual reconciliation, and shall certify the  
12 amounts to the Office of the Budget within 90 days of the end  
13 of each fiscal quarter.

14 (4) An entity collecting a local tax within the zone  
15 shall, within 30 days of the end of a fiscal quarter, submit  
16 all of the local taxes collected that are to be calculated  
17 under this subsection to the State Treasurer for transfer to  
18 the fund under subsection (d).

19 (5) The following shall be the amounts calculated:

20 (i) An amount equal to all corporate net income tax,  
21 capital stock and franchise tax, personal income tax,  
22 business privilege tax, business privilege licensing fees  
23 and earned income tax related to the ownership and  
24 operation of a facility or qualified business in the  
25 zone.

26 (ii) An amount equal to all of the following:

27 (A) All personal income tax, earned income tax  
28 and local services tax withheld from its employees by  
29 a facility or qualified business in the zone.

30 (B) All personal income tax, earned income tax

1           and local services tax withheld from the employees of  
2           any facility or qualified business in the zone.

3           (iii) An amount equal to all sales and use tax  
4           related to the operation of a facility in the zone. This  
5           subparagraph shall include sales and use tax paid by any  
6           provider of events or activities at or services to a  
7           facility, including sales and use tax paid by vendors and  
8           concessionaires and contractors at a facility.

9           (iv) An amount equal to all tax paid to the  
10           Commonwealth related to the sale of any liquor, wine or  
11           malt or brewed beverage in a facility.

12           (v) An amount equal to all personal income tax,  
13           earned income tax and local services tax withheld from  
14           personnel by a contractor or other entity involved in the  
15           construction of a facility.

16           (vi) An amount equal to all of the following:

17                   (A) All corporate net income tax, capital stock  
18                   and franchise tax, personal income tax, business  
19                   privilege tax, business privilege licensing fees and  
20                   earned income tax related to the ownership and  
21                   operation of any qualified business within the zone.

22                   (B) All personal income tax, earned income tax  
23                   and local services tax withheld from its employees by  
24                   a qualified business within the zone.

25                   (C) All personal income tax, earned income tax  
26                   and local services tax withheld from the employees of  
27                   a qualified business that provides events, activities  
28                   or services in the zone.

29                   (D) All personal income tax, earned income tax  
30                   and local services tax to which the Commonwealth

1 would be entitled from performers or other  
2 participants at an event or activity in the zone.

3 (E) All sales and use tax related to the  
4 operation of a qualified business within the zone.  
5 This clause shall include sales and use tax paid by a  
6 qualified business that provides events, activities  
7 or services in the zone.

8 (F) All tax paid by a qualified business to the  
9 Commonwealth related to the sale of any liquor, wine  
10 or malt or brewed beverage within the zone.

11 (G) The amount paid a qualified business within  
12 the zone of any new tax enacted by the Commonwealth  
13 following the effective date of this section.

14 (H) All personal income tax, earned income tax  
15 and local services tax withheld from personnel by a  
16 qualified business involved in the improvement,  
17 development or construction of the zone.

18 (I) All sales and use tax paid on materials and  
19 other construction costs, directly related to the  
20 improvement, development or construction of a  
21 facility in the zone.

22 (J) An amount equal to any amusement tax paid by  
23 a facility or a qualified business operating in the  
24 zone. No political subdivision or other entity  
25 authorized to collect amusement taxes may impose or  
26 increase the rate of any tax on admissions to places  
27 of entertainment, exhibition, amusement or upon  
28 athletic events in the zone which are not in effect  
29 on the date the zone is designated by the contracting  
30 authority.

1           (vii) Except for a tax levied against real property,  
2           an amount equal to any tax imposed by the Commonwealth or  
3           any of its political subdivisions on a qualified business  
4           engaged in an activity within the zone.

5       (c) Income apportionment.--For the purpose of making the  
6       calculations under subsection (b), the taxable income of a  
7       corporation that is a qualified business shall be apportioned to  
8       the zone by multiplying the Pennsylvania taxable income by a  
9       fraction, the numerator of which is the property factor plus the  
10       payroll factor plus the sales factor and the denominator of  
11       which is three, in accordance with the following:

12           (1) The property factor is a fraction, the numerator of  
13           which is the average value of the taxpayer's real and  
14           tangible personal property owned or rented and used in the  
15           zone during the tax period and the denominator of which is  
16           the average value of all the taxpayer's real and tangible  
17           personal property owned or rented and used in this  
18           Commonwealth during the tax period but shall not include the  
19           security interest of any corporation as seller or lessor in  
20           personal property sold or leased under a conditional sale,  
21           bailment lease, chattel mortgage or other contract providing  
22           for the retention of a lien or title as security for the sale  
23           price of the property.

24           (2) The following apply:

25               (i) The payroll factor is a fraction, the numerator  
26               of which is the total amount paid in the zone during the  
27               tax period by the taxpayer for compensation and the  
28               denominator of which is the total compensation paid in  
29               this Commonwealth during the tax period.

30               (ii) Compensation is paid in the zone if:

1           (A) the person's service is performed entirely  
2           within the zone;

3           (B) the person's service is performed both  
4           within and without the zone, but the service  
5           performed without the zone is incidental to the  
6           person's service within the zone; or

7           (C) some of the service is performed in the zone  
8           and the base of operations or, if there is no base of  
9           operations, the place from which the service is  
10           directed or controlled is in the zone, or the base of  
11           operations or the place from which the service is  
12           directed or controlled is not in any location in  
13           which some part of the service is performed, but the  
14           person's residence is in the zone.

15           (3) The sales factor is a fraction, the numerator of  
16           which is the total sales of the taxpayer in the zone during  
17           the tax period and the denominator of which is the total  
18           sales of the taxpayer in this Commonwealth during the tax  
19           period.

20           (i) Sales of tangible personal property are in the  
21           zone if the property is delivered or shipped to a  
22           purchaser that takes possession within the zone  
23           regardless of the F.O.B. point or other conditions of the  
24           sale.

25           (ii) Sales other than sales of tangible personal  
26           property are in the zone if:

27           (A) the income-producing activity is performed  
28           in the zone; or

29           (B) the income-producing activity is performed  
30           both within and without the zone and a greater



1 proportion of the income-producing activity is  
2 performed in the zone than in any other location,  
3 based on costs of performance.

4 (d) Transfers.--

5 (1) Within ten days of receiving notification under  
6 subsection (b), the Secretary of the Budget shall direct the  
7 State Treasurer to, notwithstanding any other law, transfer  
8 the amounts calculated under subsection (b) from the General  
9 Fund to the fund.

10 (2) The State Treasurer shall provide quarterly payments  
11 to the contracting authority until the bonds issued or the  
12 other debt incurred to finance the improvement and  
13 development of the zone and the construction of a contracted  
14 facility are retired. The payment in each quarter shall be  
15 equal to the balance of the fund on the date of the last day  
16 of the prior calendar quarter.

17 (e) Restriction on use of funds.--Funds transferred under  
18 subsection (d):

19 (1) May only be utilized for:

20 (i) payment of debt service on bonds issued, or  
21 payment of other debt incurred, for the improvement and  
22 development of all or any part of the zone;

23 (ii) construction of a facility; or

24 (iii) payment of debt service on bonds issued, or  
25 payment of other debt incurred, for the development of a  
26 facility in existence prior to January 1, 2012.

27 (2) May not be utilized for purposes of renovating or  
28 repairing a facility, except for capital maintenance,  
29 improvement projects and furniture, fixtures and equipment  
30 reserve funds.

1 Section 1605-D.2. Keystone Opportunity Zone.

2 Within 30 days of the effective date of this section, the  
3 city shall apply to the department to decertify and remove the  
4 designation of all or part of any Keystone Opportunity Zone that  
5 is coterminous with the City Revitalization and Improvement Zone  
6 in accordance with section 309 of the act of October 6, 1998  
7 (P.L.705, No.92), known as the Keystone Opportunity Zone,  
8 Keystone Opportunity Expansion Zone and Keystone Opportunity  
9 Improvement Zone Act. The department shall act on the  
10 application within 30 days.

11 Section 1606-D.2. Duration.

12 The zone shall be in effect for a period equal to the length  
13 of time for the repayment of debt incurred for the zone,  
14 including the time of bonds initially issued.

15 Section 2. This act shall take effect immediately.