

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 947 Session of 2013

INTRODUCED BY SMUCKER, PILEGGI, WAUGH AND BLAKE, MAY 29, 2013

REFERRED TO FINANCE, MAY 29, 2013

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

33 hereby enacts as follows:

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

3 ARTICLE XVI-K

4 CITY REVITALIZATION

5 AND IMPROVEMENT ZONES

6 Section 1601-K. Scope of article.

7 This article relates to city revitalization and improvement
8 zones.

9 Section 1602-K. 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. The term shall not include a city that
16 has had a receiver appointed under Chapter 7 of the act of July
17 10, 1987 (P.L.246, No.47), known as the Municipalities Financial
18 Recovery Act.

19 "City revitalization and improvement zone." A revitalization
20 improvement zone comprised of parcels designated by the
21 contracting authority that will result in sustainable economic
22 development and job creation within a city.

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

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

29 "Earned income tax." A tax or portion of a tax imposed on
30 earned income within a neighborhood improvement zone under the

1 act of December 31, 1965 (P.L.1257, No.511), known as The Local
2 Tax Enabling Act, which a city, or a school district contained
3 entirely within the boundaries of or coterminous with the city,
4 is entitled to receive.

5 "Facility." A structure to be used for commercial,
6 exhibition, hospitality, conference, retail, community, office,
7 recreational or mixed-use purposes. The term includes a park.

8 "Fund." A city revitalization and improvement fund
9 established under section 1606-K.

10 "Qualified business." An entity which meets all of the
11 following:

12 (1) Is any of the following that conducts business or
13 provides services:

14 (i) A sole proprietorship.

15 (ii) A corporation.

16 (iii) A limited liability company.

17 (iv) A partnership.

18 (v) An association.

19 (2) Locates or partially locates in a zone.

20 (3) Meets the requirements of section 1605-K.

21 "Zone." A city revitalization and improvement zone.
22 Section 1603-K. Approval.

23 (a) Submission.--Prior to the designation of a zone, a
24 contracting authority shall apply to the Department of Community
25 and Economic Development for approval of a city revitalization
26 and improvement zone plan. The plan shall include:

27 (1) A plan to establish one or more facilities.

28 (2) An economic development plan.

29 (3) Specific information relating to a facility which
30 will be constructed or renovated as part of the plan.

1 (4) Other information as required by the Department of
2 Community and Economic Development.

3 (b) Approval.--The zone may be designated under section
4 1604-K upon approval of the plan under subsection (a)(1). If the
5 plan is not approved by the department within 180 days, the plan
6 shall be deemed approved.

7 Section 1604-K. Facility.

8 The contracting authority may do the following:

9 (1) Designate one or more zones of not greater than 130
10 acres in total in which a facility may be constructed or
11 redeveloped.

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

13 (i) improvement and development within the zone;

14 (ii) construction or improvement of a facility
15 within the zone; or

16 (iii) redevelopment of a deteriorated facility in
17 existence prior to January 1, 2013.

18 Section 1605-K. Qualified business.

19 (a) Qualifications.--In order to qualify under this article,
20 a business must own or lease real property in the zone from
21 which the business actively conducts a trade, profession or
22 business. The qualified business must receive certification from
23 the department that the business is located and is in the active
24 conduct of a trade, profession or business within the zone.

25 (b) Relocation.--A business that relocates from outside the
26 zone into the zone shall not be a qualified business unless that
27 business either:

28 (1) increases full-time employment of the qualified
29 business by at least 20% within the zone in the first full
30 year of operation within the zone; or

1 (2) makes a capital investment in the property located
2 within a zone equivalent to 20% of the gross revenues of that
3 business in the immediately preceding calendar or fiscal
4 year.

5 Section 1606-K. Fund.

6 (a) Establishment.--Following the designation of a zone, the
7 contracting authority shall, within ten days of making the
8 designation, notify the State Treasurer of the designation. Upon
9 receipt of the notification, the State Treasurer shall establish
10 a special fund for the benefit of the contracting authority to
11 be known as a city revitalization and improvement fund. Interest
12 income derived from investment of the money in a fund shall be
13 credited by the Treasury Department to the fund.

14 (b) Certification.--

15 (1) Within 30 days of the end of each calendar year,
16 each qualified business shall file a report with the
17 department which complies with all of the following:

18 (i) States each State tax, calculated in accordance
19 with subsection (c), which was paid by the qualified
20 business in the prior calendar year.

21 (ii) Lists each State tax refund which complies with
22 all of the following:

23 (A) The refund is for a tax:

24 (I) set forth in subsection (c); and

25 (II) certified as paid under subsection (c).

26 (B) The refund was received in the prior
27 calendar year by the qualified business.

28 (iii) Is in a form and manner required by the
29 department.

30 (2) In addition to any penalties imposed under the act

1 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
2 of 1971, for failure to timely pay State taxes, failure to
3 file a timely and complete report under paragraph (1) shall
4 result in the imposition of a penalty of 10% of all State
5 taxes, calculated in accordance with subsection (c), which
6 were payable by the qualified business in the prior calendar
7 year.

8 (3) Any penalty imposed under this subsection shall be
9 imposed, assessed and collected by the department under the
10 provisions for imposing, assessing and collecting penalties
11 under Article II of the Tax Reform Code of 1971. When the
12 penalty is received, the money shall be transferred from the
13 General Fund to the fund of the contracting authority that
14 designated the zone in which the qualifying business is
15 located.

16 (4) Within 30 days of the end of each calendar year,
17 each qualified business shall file a report with the local
18 taxing authority reporting all local taxes, calculated in
19 accordance with subsection (c), which were paid by the
20 qualified business in the prior calendar year. The report
21 from each qualified business shall also list any local tax
22 refunds of taxes set forth in subsection (c) received in the
23 prior calendar year by the qualified business and any refunds
24 related to the local taxes as calculated in accordance with
25 subsection (c). The report shall be in a form and manner
26 required by the department.

27 (c) Calculation.--

28 (1) Within 60 days of the end of each calendar year, the
29 department shall certify separately for each zone the amounts
30 of State taxes paid, less any State tax refunds received, by

1 the qualified businesses filing reports under subsection (a)
2 to the Office of the Budget. Beginning in the first full
3 calendar year following the designation of a zone and in each
4 calendar year thereafter, the department shall calculate
5 amounts of State taxes actually received by the Commonwealth
6 from each qualified business that filed a report under
7 subsection (b) in the prior year, and the department shall
8 certify the amounts received to the office.

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

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

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

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

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

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

29 (A) All personal income tax, earned income tax
30 and local services tax withheld from its employees by

1 a facility or qualified business in the zone.

2 (B) All personal income tax, earned income tax
3 and local services tax withheld from the employees of
4 any facility or qualified business in the zone.

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

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

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

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

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

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

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

1 (D) All personal income tax, earned income tax
2 and local services tax to which the Commonwealth
3 would be entitled from performers or other
4 participants at an event or activity in the zone.

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

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

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

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

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

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

1 on the date the zone is designated by the contracting
2 authority.

3 (vii) Except for a tax levied against real property,
4 an amount equal to any tax imposed by the Commonwealth or
5 any of its political subdivisions on a qualified business
6 engaged in an activity within a zone or directly or
7 indirectly on any sale or purchase of goods or services
8 if the point of sale or purchase is within the zone.

9 (d) Income apportionment.--A business with locations inside
10 and outside the zone shall apportion taxes attributable to the
11 location within the zone or calculate the percentage of tax
12 payments attributable to the location within the zone.

13 (e) Transfers.--

14 (1) Within ten days of receiving notification under
15 subsection (a), the Secretary of the Budget shall direct the
16 State Treasurer to, notwithstanding any other law, transfer
17 the amounts calculated under subsection (c) from the General
18 Fund to each fund of the contracting authority. Beginning in
19 the second calendar year following the designation of a zone
20 and in each year thereafter, the amounts certified by the
21 department to the State Treasurer and the amounts transferred
22 by the State Treasurer to the fund of each contracting
23 authority shall be determined as follows:

24 (i) Add amounts certified by the department under
25 subsection (b) for the prior calendar year.

26 (ii) Subtract from the sum under subparagraph (i)
27 any State tax refunds paid as certified by the department
28 under subsection (b).

29 (iii) Add to the difference under subparagraph (ii)
30 any amounts certified under subsection (b) with respect

1 to the second prior calendar year.

2 (iv) Subtract from the sum under subparagraph (iii)
3 any amounts certified under subsection (b) which are less
4 than the amounts previously certified under subsection
5 (b) with respect to the second prior calendar year.

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

13 (f) Restriction on use of funds.--Funds transferred under
14 subsection (e):

15 (1) May only be utilized for:

16 (i) payment of debt service on bonds issued,
17 refinancing loans to repay bonds or for payment of other
18 debt incurred, for the improvement and development of all
19 or any part of the zone. Payments may be made directly or
20 indirectly through a multitiered ownership structure or
21 other structure authorized by the contracting authority
22 to facilitate financing;

23 (ii) construction of all or a part of a facility;

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, 2013; or

27 (iv) replenishment of amounts in debt service
28 reserve funds established to pay debt service on bonds.

29 (2) May not be utilized for purposes of renovating or
30 repairing a facility, except for capital maintenance,

improvement projects and furniture, fixtures and equipment
reserve funds.

Section 1607-K. Keystone Opportunity Zone.

Within 30 days of the effective date of this section, the
contracting authority shall apply to the department to decertify
and remove the designation of all or part of any Keystone
Opportunity Zone that is coterminous with the city
revitalization and improvement zone in accordance with section
309 of the act of October 6, 1998 (P.L.705, No.92), known as the
Keystone Opportunity Zone, Keystone Opportunity Expansion Zone
and Keystone Opportunity Improvement Zone Act. The department
shall act on the application within 30 days.

Section 1608-K. Duration.

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

Section 1609-K. Commonwealth pledges.

(a) Pledge.--If and to the extent that the contracting
authority pledges amounts required to be transferred to the fund
of the contracting authority under section 1605-K for the
payment of bonds issued by the contracting authority, until all
bonds secured by the pledge of the contracting authority,
together with the interest on the bonds, are fully paid or
provided for, the Commonwealth pledges to and agrees with any
person, firm, corporation or government agency, whether in this
Commonwealth or elsewhere, and to and with any Federal agency
subscribing to or acquiring the bonds issued by the contracting
authority that the Commonwealth itself will not, nor will it
authorize any government entity to do any of the following:

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

1 (2) Amend or repeal section 1606-K(b), (c) or (d).

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

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

8 (b) Limitation.--Nothing in this section shall limit the
9 authority of the Commonwealth or any government entity to change
10 the rate, tax bases or any subject of any specific tax or to
11 repeal or enact any tax.

12 Section 1610-K. Regulations.

13 The Department of Community and Economic Development and the
14 department shall develop regulations necessary to implement this
15 article. The Department of Community and Economic Development
16 shall include regulations to require annual reports relating to
17 the development of the zone.

18 Section 2. This act shall take effect immediately.