

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 552 Session of
1997

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FLICK AND McCALL, FEBRUARY 12, 1997

REFERRED TO COMMITTEE ON URBAN AFFAIRS, FEBRUARY 12, 1997

AN ACT

1 Establishing a demonstration tax-free development zone program;
2 providing for a land value tax and for businesses that
3 qualify for tax exemptions; and requiring audits.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Tax-Free
8 Development Zone Demonstration Program Act.

9 Section 2. Legislative findings and declaration of purpose.

10 (a) Legislative findings.--The General Assembly finds and
11 declares as follows:

12 (1) A recent study of existing state enterprise zone
13 programs in the United States concluded that:

14 (i) Notable improvements occurred in many zones.

15 (ii) Job growth rates were higher than the national
16 average over a comparable period of time in many zones.

1 (iii) The typical zone experienced the additional
2 investment of several new and expanding businesses.

3 (iv) New firms and the expansion of existing
4 establishments accounted for more than 80% of the
5 establishments in which investments occurred.

6 (v) Manufacturing activities accounted for 73% of
7 all zone investment activity and job gains.

8 (vi) The state and local incentives, including tax
9 incentives, were relatively low-cost inducements and
10 quite small in relation to job gains.

11 (vii) A significant number of state-sponsored
12 enterprise zones have achieved notable successes in
13 revitalizing some of their economically distressed areas.

14 (2) In spite of this, the study cautioned that:

15 (i) The selection of only zones that meet the
16 designation criteria for the most severely distressed
17 areas may result in the choosing of zones with limited
18 development potential.

19 (ii) The good intentions of some incentives for
20 businesses to locate or expand in an enterprise zone were
21 lost by severely restrictive qualification criteria.

22 (3) A recent Statewide survey of Pennsylvania businesses
23 concerning this Commonwealth's economy concluded that:

24 (i) The current system of local services and taxes
25 is a cause of dissatisfaction among many firms in this
26 Commonwealth.

27 (ii) Few firms are using existing State economic
28 development programs.

29 (iii) State economic development programs must be
30 redesigned to accommodate the new directions and

1 activities being undertaken by businesses in this
2 Commonwealth.

3 (4) While the Commonwealth's existing Enterprise
4 Development Area Program, administered by the Department of
5 Community Affairs and its successor, the Department of
6 Community and Economic Development, since 1982, has been
7 successful in stimulating economic and community development
8 in this Commonwealth's designated enterprise zone
9 communities, this program is notably deficient because:

10 (i) Municipalities must apply and be approved for
11 participation, which results in waiting lists, time
12 delays and administrative expenses.

13 (ii) State program financial assistance targeted to
14 these approved designated zones, including tax credits,
15 is limited by the Commonwealth's financial resources
16 available during any given fiscal year.

17 (iii) There is a need to increase the business tax
18 incentives available to encourage new businesses to
19 locate in these zones and for existing businesses already
20 located in these zones to expand.

21 (iv) There is a need to expedite the process of
22 private sector investment in all of this Commonwealth's
23 urban centers, not only in existing designated zones
24 under the Enterprise Development Area Program currently
25 administered by the Department of Community and Economic
26 Development.

27 (5) Expediting economic development activities in urban
28 areas of this Commonwealth would implement the
29 recommendations made by the Select Committee on Land Use and
30 Growth Management of the House of Representatives in its

1 final report to the General Assembly in June 1992, which
2 encouraged increased commercial, industrial and housing
3 development in this Commonwealth's urban centers where
4 infrastructure needed to support new development is already
5 in place, thus preserving this Commonwealth's limited
6 farmland, open space and natural resources.

7 (b) Declaration of purpose.--Based on the findings under
8 subsection (a), it is the purpose of this act to:

9 (1) Establish tax-free zones in this Commonwealth's
10 urban centers as an inducement to expedite private sector
11 investment, the result of which will be increased community
12 and economic development activities, including the creation
13 of new employment and housing opportunities for recipients of
14 assistance under the act of June 13, 1967 (P.L.31, No.21),
15 known as the Public Welfare Code.

16 (2) Indicate the size of the municipality that would be
17 eligible to participate.

18 (3) Specify the type of area which would qualify as a
19 tax-free zone.

20 (4) Simplify the application process, qualification
21 criteria and administrative procedures currently associated
22 with the Commonwealth's existing Enterprise Development Area
23 Program for tax-free zone designation under this act.

24 (5) Provide a list of the business taxes which would be
25 exonerated in these zones.

26 (6) Establish municipal qualification and implementation
27 procedures, including the initiation of a land value tax
28 system in the municipality.

29 (7) Establish a municipal certification process for
30 businesses that qualify for the tax exemptions.

1 (8) Require Department of Revenue audits for
2 participating municipalities and qualified businesses.

3 Section 3. Definitions.

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

7 "Business entity" or "business." Any corporation,
8 partnership, sole proprietorship or other entity authorized to
9 do business in this Commonwealth and subject to any of the taxes
10 imposed by Article III, IV or VI of the act of March 4, 1971
11 (P.L.6, No.2), known as the Tax Reform Code of 1971.

12 "Business income." Business income as defined in section 401
13 2(a)(1)(A) of Article IV of the act of March 4, 1971 (P.L.6,
14 No.2), known as the Tax Reform Code of 1971.

15 "Department." The Department of Community and Economic
16 Development of the Commonwealth.

17 "Joint tax-free zone." A tax-free zone established by two or
18 more contiguous municipalities which includes areas in each
19 municipality.

20 "Municipal corporation" or "municipality." Any first class,
21 second class, second class A or third class city, borough,
22 incorporated town or township with a total population of 3,000
23 or more.

24 "Population." The number of persons in each municipality as
25 finally determined by the United States Census Bureau of the
26 United States Department of Commerce in its most recent
27 population estimate report.

28 "Tax-free zone." A specific area with identifiable
29 boundaries within a qualified municipality that has been
30 designated as a tax-free zone.

1 Section 4. Establishment of tax-free development zones.

2 (a) Establishment.--A municipality or municipalities may
3 establish a specific geographic area or areas within its
4 boundaries as a tax-free zone or a joint tax-free zone, under
5 the requirements of section 6.

6 (b) Requirements.--While there is no limitation on the size
7 of the tax-free zone or zones which a municipality may
8 designate, in no case shall an entire municipality be designated
9 as a tax-free zone. Areas so designated shall at the time of the
10 zone's establishment:

11 (1) Be predominately zoned commercial and/or industrial
12 or, where there is no zoning, have a current land use in the
13 designated area reflective of the same.

14 (2) Be economically distressed in terms of lacking
15 adequate employment opportunities within the designated area
16 or areas.

17 (3) Show signs of existing physical deterioration of
18 buildings and structures in the area.

19 (4) Show signs of blight and unsafe, unsanitary and
20 inadequate conditions of the dwellings, excessive land
21 coverage by the buildings and economically and socially
22 undesirable land uses.

23 (5) Have the potential of being a catalyst for the
24 creation of a positive economic climate in the community
25 resulting in the formation of new businesses and the
26 expansion of existing businesses within the area.

27 (6) Have the potential of being a catalyst for an
28 improved quality of life in the municipality, including
29 expanded affordable housing opportunities, which would result
30 from new and expanded development in the area.

1 (7) Provide new jobs and increased employment
2 opportunities for disadvantaged citizens and displaced and
3 unemployed workers within the municipality.

4 (8) Have commercial business and/or industrial sites and
5 structures available within the designated zone or zones with
6 adequate infrastructure and energy availability, capable of
7 supporting new and expanded development.

8 (9) Have existing commercial businesses and/or
9 industries ready and willing to reinvest and expand within
10 the area, if the area was designated as a tax-free zone.

11 (c) Location.--An area designated as a tax-free zone under
12 this act may be located within an existing enterprise zone
13 approved by the department under the Commonwealth's existing
14 Enterprise Development Area Program.

15 (d) Tax exemptions.--A business located or locating in tax-
16 free zones under this act, upon the municipality meeting the
17 requirements under section 6, shall be eligible for the
18 applicable tax exonerations under section 9.

19 Section 5. Certification by department.

20 (a) Consideration.--Upon submittal by a municipality of a
21 preliminary description of a tax-free zone under section
22 6(a)(1), the department may certify the proposed zone generally
23 and each business recommended for tax exoneration specifically.
24 The certification shall be based on whether or not the area
25 chosen by the municipality and the businesses within that area
26 comply with the intent of the act as expressed in section 2 and
27 have the potential to increase future State and local tax
28 revenues as a result of jobs created and economic development
29 stimulated within the zone.

30 (b) Criteria.--In order to certify a tax-free zone, the

1 department shall do the following:

2 (1) The department shall promulgate and apply criteria
3 which objectively measures the following:

4 (i) The proposed zone's compliance with the intent
5 of the act as expressed in section 2.

6 (ii) The fiscal status of the entire municipality
7 proposing the zone.

8 (iii) The compliance of each business with the
9 intent of the act as expressed in section 2.

10 (iv) The potential to increase future State and
11 local tax revenues as a result of jobs created and
12 economic development stimulated within the zone.

13 (2) The department shall limit its certification of
14 businesses within the tax-free zone to retail, commercial and
15 industrial businesses and shall deny certification to
16 businesses whose regular course of trade consists of real
17 property speculation that does not comply with the intent of
18 the act expressed in section 2.

19 (3) The department shall base its decision to certify or
20 withhold certification a tax-free zone or the businesses in
21 it based on these criteria.

22 (c) Tax exonerations.--When the department certifies a tax-
23 free zone and the businesses in it, it shall send the following
24 information to the Department of Revenue:

25 (1) a list of all certified businesses in the zone; and

26 (2) the estimated amount of tax exoneration each
27 business is eligible for.

28 (d) Resubmittal.--Any municipality whose preliminary
29 description is not certified may address the concerns that the
30 department based its decision on and resubmit the amended

1 preliminary description for certification.

2 (e) Time limitation.--If the department has not notified the
3 municipality of its decision within 60 days of the submittal,
4 the preliminary description shall be deemed to be certified.

5 (f) Certification of critical economic areas.--The
6 department shall give priority in the certification of tax-free
7 zones to municipalities which have been designated as critical
8 economic areas or are located in counties which have been
9 designated as critical economic areas pursuant to the act of May
10 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania
11 Industrial Development Authority Act.

12 Section 6. Implementation procedure.

13 (a) Requirements.--A municipality wishing to designate an
14 area or areas within the municipality as a tax-free zone shall:

15 (1) Submit a preliminary description of the area or
16 areas to be designated as a tax-free zone or zones and the
17 specific businesses to receive tax exonerations to the
18 department to be certified under section 5. The preliminary
19 description submitted must be a faithful representation of
20 the tax-free zone to be included in the ordinance required in
21 paragraph (2). In preparing the preliminary description, the
22 municipality shall consult with nonprofit community
23 development corporations located within the municipality in
24 order to gain their input on what geographical areas are best
25 suited to tax-free zone status.

26 (2) Pass an ordinance indicating a desire to designate
27 an area or areas within the corporate boundaries of the
28 municipality as a tax-free zone or zones under the
29 requirements of this act.

30 (3) Indicate in the ordinance that the area or areas to

1 be so designated meet the qualification requirements of
2 section 4 for a tax-free zone designation.

3 (4) Include as part of the ordinance a clear and
4 complete narrative description of the boundaries of the
5 proposed zone or zones, accompanied by a map. Both the
6 description and the map shall indicate the names of all
7 perimeter and interior streets, bridges, streams and creeks,
8 as well as other natural and manmade landmarks and monuments.
9 The approximate total acreage or square mileage for the
10 proposed zone or zones shall also be included.

11 (5) Include as part of the ordinance a map indicating
12 each parcel of real property located within the zone or zones
13 to be designated as tax-free zones. Vacant land and vacant or
14 underutilized buildings shall be so indicated on the map
15 identifying the parcels of real property within each zone.
16 Parcels on which an existing operating business is located
17 shall also be indicated.

18 (6) Include as part of the ordinance a specific plan the
19 municipality will implement to attract and retain businesses
20 within the zone that have the potential to increase State and
21 local tax revenues as a result of jobs created and economic
22 development stimulated.

23 (7) Include as a part of the ordinance a list of the
24 businesses the municipality will recommend to the department
25 for the tax exonerations granted under this act.

26 (b) Changes.--Subsequent changes to the boundaries of tax-
27 free zones may be made by a municipality following the initial
28 establishment of the zones. Any changes made shall be reflected
29 in the information required to be submitted to the Department of
30 Revenue under section 8.

1 Section 7. Land value tax.

2 A municipality wishing to designate an area or areas within
3 the municipality as a tax-free zone may, after passing the
4 ordinance required by section 6, levy separate and different
5 rates of taxation for municipal purposes on all real estate
6 classified as land, exclusive of the buildings thereon, and on
7 all real estate classified as buildings, which lands and
8 buildings are located within the tax-free zone. When real estate
9 tax rates are so levied:

10 (1) The rates shall be determined by the requirements of
11 the municipal budget as approved by the governing body.

12 (2) A higher rate shall be levied on the land than on
13 the buildings situated on the land.

14 (3) The combined rate shall in the aggregate not exceed
15 the maximum rate allowed by law on both land and buildings.

16 (4) The rates shall be uniform as to all real estate
17 within the municipality.

18 Section 8. Municipal certification of businesses that qualify
19 for tax exemptions.

20 (a) Tax filing.--A municipality that has enacted an
21 ordinance under section 6 shall file with the Department of
22 Revenue and the Department of Community and Economic Development
23 by December 31 of each year the following:

24 (1) For the first year only, following enactment of the
25 ordinance, a copy of the municipal ordinance establishing a
26 tax-free zone or zones.

27 (2) For the first year following enactment of the
28 ordinance and for each subsequent year:

29 (i) A parcel identification map for each tax-free
30 zone established, indicating each parcel occupied by a

1 business that qualifies for a tax exemption allowed under
2 section 9.

3 (ii) A list corresponding to the parcel
4 identification map, which indicates:

5 (A) The name and mailing address of each
6 qualified business indicated on the map.

7 (B) The name and mailing address of the owner or
8 owners of each qualifying business indicated on the
9 map.

10 (C) The State tax identification number issued
11 by the department for each qualifying business
12 indicated on the map.

13 (b) Apportionment.--In case the entire business of any
14 business entity eligible for tax exoneration is not transacted
15 within a tax-free zone, the tax exonerations provided by this
16 act shall be apportioned as follows:

17 (1) Tax exonerations shall be apportioned by a fraction,
18 the numerator of which is the property factor plus the
19 payroll factor and the denominator of which is two. The
20 property factor and the payroll factor shall be determined in
21 accordance with Article IV of the act of March 4, 1971
22 (P.L.6, No.2), known as the Tax Reform Code of 1971.

23 (2) For the purpose of construing this subsection, when
24 the following words and phrases are used in Article IV of the
25 Tax Reform Code, they shall have the meanings given to them
26 in this paragraph unless the context clearly indicates
27 otherwise:

28 "Corporation." Any corporation, partnership, sole
29 proprietorship or other entity authorized to do business in
30 this Commonwealth and subject to any of the taxes imposed by

Articles III, IV or VI of the Tax Reform Code of 1971.

"State" or "Commonwealth." A tax-free zone as provided by this act.

Section 9. Taxes exonerated in tax-free development zones.

(a) Exoneration.--In accordance with section 2(b)(iii) of Article VIII of the Constitution of Pennsylvania, businesses which meet the criteria of subsection (e) shall be eligible for exoneration from certain taxes as provided for under subsection (b).

(b) Schedule.--A business shall be exonerated from the taxes imposed by Articles III, IV and VI of the Tax Reform Code of 1971 in accordance with the following exemption schedule:

(1) 20% of total taxes eligible for exoneration in the first year in which the business is located in a tax-free development zone.

(2) 40% of total taxes eligible for exoneration in the second year in which the business is located in a tax-free development zone.

(3) 60% of total taxes eligible for exoneration in the third year in which the business is located in a tax-free development zone.

(4) 80% of total taxes eligible for exoneration in the fourth year in which the business is located in a tax-free development zone.

(5) 100% of total taxes eligible for exoneration in the fifth year in which the business is located in a tax-free development zone and in each year thereafter.

(c) Reinvestment.--For purposes of obtaining the phased-in tax exemptions under subsection (b), a business must have reinvested into its business within the tax-free zone an amount

1 equivalent to the amount of tax liability exempted in any given
2 year or years or have in the aggregate reinvested the total
3 amount of the tax liability for the four years prior to being
4 totally tax exempt in year five as provided for under subsection
5 (b). Where the equivalent reinvestment is not made annually, an
6 amount equal to the tax liability waived shall be annually
7 placed in an escrow account, and the amount in the escrow
8 account must be reinvested in the property by the end of year
9 four or encumbered or under contract for reinvestment in the
10 property by the end of year four, for the property to be tax
11 exempt in year five as provided for under subsection (b).

12 (d) Limitation.--The exoneration provided for in this
13 section shall be effective for a 15-year period.

14 (e) Eligibility.--Businesses located in the tax-free zone at
15 the time the zone is established and new businesses within the
16 zone are eligible for the exoneration provided for in this
17 section. Businesses relocating to a tax-free zone from other
18 areas in this Commonwealth shall not be eligible for the
19 exoneration provided for in this section.

20 Section 10. Amount of exoneration.

21 (a) Limit on business.--The amount of tax exonerations
22 granted in the first fiscal year following enactment of this act
23 shall be \$21,000,000. In each subsequent year the tax
24 exonerations shall be in the following amounts:

- 25 (1) \$21,000,000 in new exonerations to eligible
26 businesses that have not yet received an exoneration; and
27 (2) an amount necessary to fund the exonerations granted
28 in previous years in accordance with section 9.

29 (b) Location of business.--The amount of exonerations
30 granted to businesses in a single municipality under subsection

1 (a)(1) may not exceed 10% of the total annual amount granted
2 under subsection (a).

3 (c) Priority for exoneration.--If the requests for
4 exonérations exceed the amounts specified in subsection (a),
5 priority for tax exoneration shall be given to eligible
6 businesses within municipalities which have been designated as
7 critical economic areas or are located in counties which have
8 been designated as critical economic areas pursuant to the act
9 of May 17, 1956 (1955 P.L.1609, No.537), known as the
10 Pennsylvania Industrial Development Authority Act.

11 Section 11. Recapture.

12 Any business receiving a tax exoneration under section 9 that
13 relocates out of the tax-free zone within ten years of receiving
14 the exemption must repay a portion of the amount exonerated
15 according to the following schedule:

16 (1) relocation within four years - 70%;

17 (2) four years to five years - 60%;

18 (3) five years to six years - 50%;

19 (4) six years to seven years - 40%;

20 (5) seven years to eight years - 30%;

21 (6) eight years to nine years - 20%; and

22 (7) nine years to ten years - 10%.

23 Section 12. Priority.

24 The department shall give municipalities with tax-free zones
25 priority consideration in any assistance programs for which they
26 are eligible.

27 Section 13. Audits.

28 (a) Municipalities.--The Department of Revenue shall conduct
29 periodic audits of municipalities that establish tax-free zones
30 as often as deemed necessary to insure compliance with the

1 provisions of this act.

2 (b) Businesses.--The Department of Revenue shall conduct
3 periodic audits of businesses which municipalities have
4 indicated are located in tax-free zones and qualify for tax
5 exemptions under section 9 as often as deemed necessary to
6 insure compliance with the provisions of this act.

7 Section 14. Regulations.

8 (a) Tax information.--The Department of Revenue is
9 authorized to adopt any tax forms, procedures, rules and
10 regulations as may be necessary to implement and insure
11 compliance with the provisions of this act relating to tax
12 collection.

13 (b) Exoneration information.--The Department of Community
14 and Economic Development may promulgate regulations its
15 secretary deems to be necessary to carry out the certification
16 and economic development provisions of this act.

17 (c) Duty of department to collect data.--Within two years of
18 the effective date of this act, both departments shall begin to
19 collect data on the effect this act has had on the
20 municipalities that have established tax-free zones. The
21 Department of Community and Economic Development shall
22 promulgate objective criteria to measure the effect of the
23 program. The criteria shall be designed to determine if private
24 investment has occurred in those municipalities that would not
25 have occurred without the incentives provided by this act.

26 Section 15. Sunset.

27 (a) Five year expiration date.--Five years after its
28 effective date the General Assembly shall either terminate or
29 reestablish the act. If the General Assembly terminates the act,
30 all regulations promulgated under it shall expire.

1 (b) Duty of department to make report.--One year prior to
2 the reconsideration of the act by the General Assembly, the
3 department shall submit a report to the General Assembly on the
4 effectiveness of the act to date. The report shall recommend one
5 of the following actions:

6 (1) extension of the act as it is currently written for
7 a five-year period;

8 (2) extension of the act with amendments contained in
9 the report for a five-year period; or

10 (3) termination of the act.

11 (d) Status of tax exonerations upon expiration.--Upon
12 termination of the act, tax exonerations already granted under
13 the act shall continue for the 15-year period contained in the
14 act.

15 Section 16. Effective date.

16 This act shall take effect in 60 days.