

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 418 Session of 2009

INTRODUCED BY FARNESE AND WASHINGTON, FEBRUARY 23, 2009

REFERRED TO COMMUNITY, FEBRUARY 23, 2009

AN ACT

1 Providing for first class city casino neighborhood improvement  
2 districts.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the First Class  
7 City Casino Neighborhood Improvement District Act.

8 Section 2. Legislative findings.

9 The General Assembly finds that:

10 (1) Under 4 Pa.C.S. Pt. II (relating to gaming) the  
11 Pennsylvania Gaming Control Board is statutorily mandated to  
12 award two category 2 slot machine licenses to facilities  
13 located within a city of the first class.

14 (2) Due to the geographic nature of cities of the first  
15 class, including population density, traffic patterns and the  
16 location of residential neighborhoods and business corridors,  
17 cities of the first class face unique circumstances relating  
18 to casino siting.

1           (3) Based on these unique circumstances, a city of the  
2 first class may benefit from the creation of casino  
3 neighborhood improvement districts, governed by a casino  
4 neighborhood improvement management association, within its  
5 boundaries.

6           (4) Authorizing a city of the first class to create a  
7 casino neighborhood improvement district will provide the  
8 city with an opportunity to mitigate the impact hosting a  
9 casino has on the city's citizens, businesses and  
10 neighborhoods and will assist the city in promoting economic  
11 growth, development and employment.

12           (5) In addition, authorizing the governing body of a  
13 city of the first class to impose a casino impact fee on  
14 casinos within the casino neighborhood improvement district  
15 for use within the district by the casino neighborhood  
16 improvement management association will further the goals set  
17 forth under this act.

### 18 Section 3. Definitions.

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

22       "Authority." A body politic and corporate, as established in  
23 accordance with 53 Pa.C.S. Ch. 56 (relating to municipal  
24 authorities).

25       "Capital project." The acquisition, development,  
26 construction, improvement, rehabilitation, operation and  
27 maintenance of any building, facility, equipment or structure,  
28 by purchase, lease or contract, by an association. The term  
29 includes the acquisition, rehabilitation or demolition of  
30 blighted buildings or comparable structures.

1 "Casino." A licensed gaming facility as defined in 4 Pa.C.S.  
2 Pt. II (relating to gaming).

3 "Casino impact fee." A daily fee imposed by the association,  
4 with the approval of the governing body, on a casino located  
5 within a district. The daily fee shall not exceed 3.25% of the  
6 casino's daily gross terminal revenue, as defined under 4  
7 Pa.C.S. Pt. II (relating to gaming), from the slot machines in  
8 operation at the casino.

9 "Casino neighborhood improvement district" or "district." A  
10 limited geographic area within a city in which a casino impact  
11 fee is imposed for the purposes of promoting the economic and  
12 general welfare of the district and the city and mitigating the  
13 impact hosting a casino has on the citizens and neighborhoods of  
14 the city.

15 "City." A city of the first class.

16 "Commercial." Relating to or associated with any for-profit  
17 activity involving trade, traffic or commerce in general.

18 "District advisory council" or "council." A committee of  
19 property owners who reside in a district. The council shall be  
20 appointed by the association and shall provide guidance and  
21 direction to the association concerning association activities.

22 "District improvement." Improvements needed in specific  
23 areas of the district or to individual properties located in the  
24 district. Improvements shall include:

25 (1) Capital projects.

26 (2) Traditional streetscape and building renovations.

27 (3) Construction or renovation of retaining walls.

28 (4) Street paving.

29 (5) Installation or repair of street lighting.

30 (6) Creation, maintenance or repair of parking lots and

1 parking garages.

2 (7) Planting and maintaining trees and shrubbery.

3 (8) Creation and maintenance of pedestrian walks.

4 (9) Installation, maintenance and repair of sewers and  
5 water lines.

6 (10) Establishment of rest areas.

7 "District management association" or "association." The  
8 governing body of the district.

9 "District plan" or "plan." The strategic plan for  
10 neighborhood improvements required under section 5 and all  
11 projects, programs and supplemental services to be provided  
12 within the district by the association.

13 "District programs and services." The term includes programs  
14 and services which improve the ability of the commercial  
15 establishments within the district to serve the consumer or  
16 which improve the ability of property owners to enjoy a safer  
17 and more attractive community. Additional services provided by  
18 the association shall supplement, not replace, existing city  
19 services provided within the district.

20 "Governing body." The city council of a city of the first  
21 class.

22 "Limited geographic area." An area within a one-mile radius  
23 of a casino as measured from the boundaries of the parcel of  
24 land on which the casino is located.

25 "Municipality Authorities Act." The provisions of 53 Pa.C.S.  
26 Ch. 56 (relating to municipal authorities).

27 "Nonprofit corporation." A legal entity that is incorporated  
28 within this Commonwealth and specifies in its charter or bylaws  
29 that no part of the net earnings may benefit any private  
30 shareholder or individual holding interest in the entity.

1 "Private security officer." A person or firm that contracts  
2 with the association for the purpose of providing increased  
3 security or protective patrol services within the district. The  
4 term may include off-duty police officers if the use of off-duty  
5 police officers employed by the city is approved by the  
6 governing body.

7 "Service area." The area within the boundaries of the  
8 district in which the association provides programs, services  
9 and improvements. The term may also include an area outside the  
10 district where services are being provided by the association  
11 under contract.

12 "Soft costs." The term includes architectural fees,  
13 engineering fees, attorney fees, consulting fees, professional  
14 fees, preliminary planning expenditures, feasibility study  
15 expenditures, financing costs and any other expenditures  
16 necessary and incidental to the development, construction or  
17 completion of the improvement.

18 "Sunset provision." A provision in the ordinance  
19 establishing the district which provides for the automatic  
20 termination of the district on a date certain. The governing  
21 body may, by ordinance, extend the district beyond the date  
22 contained in the enabling ordinance following a review of the  
23 district and the association programs and services provided  
24 within the district.

25 Section 4. Powers of governing body.

26 The governing body shall have the power to do any of the  
27 following:

28 (1) Designate by ordinance an area or areas within the  
29 city as a district.

30 (2) Designate an association as the administrator of the

1 district.

2 (3) Appropriate and expend, in accordance with the  
3 specific provisions of the enabling ordinance, city funds as  
4 may be required to do any of the following:

5 (i) Acquire, by purchase or lease, real or personal  
6 property deemed necessary to effectuate the purposes of  
7 the district.

8 (ii) Prepare or have prepared preliminary planning  
9 or feasibility studies to determine needed programs,  
10 services and improvements in a proposed district.

11 (4) Advance funds to an association as may be required  
12 to carry out the purposes of this act.

13 (5) Authorize the imposition of casino impact fees by  
14 the association. Casino impact fees distributed to the city  
15 under section 8(d) shall be remitted to the association for  
16 use as prescribed in this act.

17 (6) Acquire by gift, purchase or eminent domain, land,  
18 real property or rights-of-way which may be needed for the  
19 purposes of making district improvements.

20 (7) Issue bonds, notes or guarantees, in accordance with  
21 the provisions of general laws in the amounts and for the  
22 periods necessary to finance needed district improvements.

23 (8) Review all proposed expenditures of funds within  
24 districts by associations and suggest changes to the proposed  
25 expenditures.

26 (9) Include in the agreement with the association and in  
27 the enabling ordinance establishing the district a sunset  
28 provision of no less than five years for renewal of the  
29 agreement.

30 Section 5. Casino neighborhood improvement district.

1 (a) Establishment.--Creation of a district may be initiated  
2 only by the governing body, except that if the governing body  
3 has not taken action to create a district within 180 days of the  
4 effective date of this section, city businesses or residents, or  
5 a combination of both, comprising 51% of the property owners  
6 within a limited geographic area may petition the governing body  
7 to establish a district as set forth in this act.

8 (b) Procedure for creating a district.--Prior to enacting an  
9 ordinance creating a district, the governing body shall do all  
10 of the following:

11 (1) Submit a preliminary plan containing the information  
12 required under subsections (c) and (d) to all property owners  
13 and lessees of property located in the proposed district at  
14 least 30 days prior to the first public hearing required  
15 under this section.

16 (2) Hold at least one public hearing on the preliminary  
17 plan for the purpose of receiving public comment from  
18 affected property owners or lessees located within the  
19 proposed district. The governing body shall notify all  
20 property owners and lessees of property located in the  
21 proposed district of the date, location and time of the  
22 public hearing and shall advertise notice of the public  
23 hearing at least ten days prior thereto in a newspaper of  
24 general circulation within the city.

25 (3) Provide a minimum 30-day public comment period after  
26 the completion of the last public hearing conducted under  
27 paragraph (2) during which time affected property owners or  
28 lessees may submit comments or recommendations regarding the  
29 preliminary plan. Comments and recommendations shall be made  
30 in writing, signed by the property owner and filed in the

1 office of the clerk of the governing body.

2 (4) Submit a final plan to all property owners and  
3 lessees of property located in the proposed district at least  
4 ten days prior to the public hearing required under paragraph  
5 (5). The final plan shall incorporate changes, if any, made  
6 to the preliminary plan based on comments and recommendations  
7 from affected property owners within the proposed district  
8 provided at the public hearing under paragraph (2) or during  
9 the public comment period under paragraph (3). Changes to the  
10 preliminary plan shall be indicated in an easily discernible  
11 method for the reader, including changes being in boldface or  
12 italic type.

13 (5) Hold at least one public hearing on the proposed  
14 final plan for the purpose of receiving public comment.  
15 Notice of the public hearing shall be provided as set forth  
16 under paragraph (2).

17 (6) Following the last public hearing required under  
18 paragraph (5), provide a 45-day period during which affected  
19 property owners, excluding owners of a casino property,  
20 situated within the proposed district, may file written  
21 objections to the establishment of the district. Written  
22 objections shall be signed by the property owner or lessee  
23 and filed with the office of the clerk of the governing body.

24 (7) If, at the close of the 45-day period established  
25 under paragraph (6), the governing body determines that 51%  
26 of the property owners within the proposed district,  
27 excluding owners of casino property, whose property valuation  
28 as assessed for taxable purposes amounts to 51% of the total  
29 property valuation located within the proposed district  
30 object to the creation of the district, the governing body



1 shall not establish the district.

2 (8) If the governing body is not prohibited from  
3 establishing the district under paragraph (7), the governing  
4 body shall create the district as reflected in the final plan  
5 through ordinance. Any ordinance creating a district under  
6 this act shall be adopted in accordance with law.

7 (c) Preliminary plan.--The preliminary plan shall include  
8 the following:

9 (1) A map indicating the boundaries, by street, of the  
10 proposed district.

11 (2) A written report from the city containing:

12 (i) The name of the proposed district.

13 (ii) A detailed description of the service areas of  
14 the proposed district.

15 (iii) The name of the casino upon which the casino  
16 impact fee will be imposed. No casino may be included in  
17 more than one district.

18 (iv) A list of proposed programs, services and  
19 improvements to be completed within the district and the  
20 estimated cost of each.

21 (v) A proposed itemized budget for the first fiscal  
22 year, including expenditures for the following:

23 (A) Personnel and administration.

24 (B) District programs and services.

25 (C) District improvements.

26 (D) Soft costs.

27 (vi) The proposed revenue sources for financing all  
28 proposed improvements, programs and services.

29 (vii) The estimated time for implementation and  
30 completion of all proposed improvements, programs and

1 services.

2 (viii) A statement identifying the administrative  
3 body which will govern and administer the district.

4 (ix) Any other information, including the statutory  
5 authority or, in the case of a nonprofit corporation, the  
6 bylaws, which describe the powers and duties and the  
7 method for making decisions by the association.

8 (d) Additional preliminary plan provisions.--The preliminary  
9 plan shall also:

10 (1) Identify in detail the specific duties and  
11 responsibilities of both the association and the city with  
12 respect to the district.

13 (2) Require that a written agreement be signed by the  
14 governing body and the association which:

15 (i) describes in detail their respective duties and  
16 responsibilities;

17 (ii) provides that the city must maintain the same  
18 level of city programs and services provided within the  
19 district after district designation as before district  
20 designation; and

21 (iii) allows the governing body the right to include  
22 in the agreement a sunset provision of no less than five  
23 years for renewal of the agreement.

24 (3) Allow for and encourage tax-exempt property owners  
25 located within the district to provide in-kind services or a  
26 financial contribution to the association.

27 (4) Establish the procedure by which affected property  
28 owners, with the exception of the owners of casino property,  
29 may defeat a proposal to establish a district, as follows:

30 (i) A negative vote of at least 51% of the property

1 owners within the district or property owners within the  
2 district whose property valuation, as assessed for  
3 taxable purposes, amounts to 51% of the total property  
4 valuation located within the district proposed in the  
5 final plan shall be required to defeat the establishment  
6 of the proposed district; and

7 (ii) Those objecting to the establishment of a  
8 district shall file objections with the clerk for the  
9 municipal corporation within 45 days of presentation of  
10 the final plan where the governing body of the  
11 municipality is inclined to establish a district.

12 (e) Amendments to final plan.--

13 (1) The final plan may be amended by the association any  
14 time after the establishment of a district, under this act,  
15 upon the majority vote of the association board, if there is  
16 concurrence by the owners, excluding the owners of casino  
17 property, of at least 51% of the assessed valuation of all  
18 property within the district or 51% of the property owners  
19 within the district.

20 (2) (i) Amendments to the final plan which also require  
21 the approval of the governing body include:

22 (A) Substantially changed or added programs,  
23 improvements and services to be provided in the  
24 district.

25 (B) Increased expenditures affecting more than  
26 25% of the total association budget for the fiscal  
27 year.

28 (C) Incurring increased indebtedness.

29 (D) Changing the legal entity (association)  
30 which provides programs, improvements and services

1           within the district.

2           (E) Changing the district service area  
3           boundaries.

4           (ii) Prior to the approving of any of the changes in  
5           this paragraph, the governing body shall hold at least  
6           one public hearing to determine that the changes are in  
7           the public's interest as they relate to affected property  
8           owners within the district. The governing body shall  
9           provide public notice of a hearing for any amendments by  
10          publication of a notice in at least one newspaper having  
11          a general circulation within the city. The notice shall  
12          set forth the date, time and location of the hearing and  
13          the amendments to be considered. This notice shall be  
14          published once at least ten days prior to the date of the  
15          hearing. The governing body may, within 30 days following  
16          the public hearing and at its sole discretion, approve or  
17          disapprove any amendments to the plan. If approved, the  
18          amendments shall be effective upon the date of the  
19          approval.

20          (3) Prior to the adoption of an amendment to the  
21          district boundaries which increases the size of the district,  
22          an owner of property to be added to the district shall be  
23          notified of the date, time and location of the public hearing  
24          on the proposed amendment to the final plan and provided all  
25          information required under subsection (c).

26          Section 6. Casino neighborhood improvement district management  
27          association.

28          (a) Designation.--When a governing body establishes a  
29          district under this act, the governing body shall designate a  
30          casino neighborhood improvement district management association

1 to administer district improvements, programs and services as  
2 set forth in the district plan. The association shall be either  
3 an authority created pursuant to the Municipal Authorities Act  
4 or a nonprofit development corporation or other nonprofit  
5 corporation established or authorized to be established by the  
6 governing body.

7 (b) Powers.--The association shall have the authority to  
8 exercise the following powers immediately upon the effective  
9 date of the ordinance designating district under section 4:

10 (1) All powers authorized under section 7.

11 (2) If the association is an authority, all powers,  
12 rights and duties authorized under the Municipal Authorities  
13 Act, to the extent the powers are not inconsistent with or  
14 prohibited under this act.

15 (3) If the association is a nonprofit development  
16 corporation or other nonprofit corporations, all powers,  
17 rights and duties prescribed under laws applicable to those  
18 entities or included in the corporation's charter and bylaws,  
19 to the extent the powers are not inconsistent with or  
20 prohibited under this act.

21 (c) Governance.--Every association shall be governed by an  
22 administrative board.

23 (1) Notwithstanding any other provision of law, the  
24 board shall consist of the following seven voting members:

25 (i) One member representing residential property  
26 owners within the district appointed by majority vote of  
27 the ex officio members.

28 (ii) One member representing commercial business  
29 owners within the district appointed by majority vote of  
30 the ex officio members.

1 (iii) One member appointed by the governing body.

2 (iv) One member appointed by the mayor.

3 (v) One member appointed by the State senator  
4 representing the district.

5 (vi) One member appointed by the State  
6 representative representing the district.

7 (vii) One member appointed by the casino located  
8 within the district.

9 (2) The following individuals, or their designees, shall  
10 serve on the board as nonvoting ex officio members:

11 (i) The State senator representing the district.

12 (ii) The State representative representing the  
13 district.

14 (iii) A member of the governing body.

15 (iv) A representative of the casino located within  
16 the district.

17 (v) The mayor of the city.

18 (3) Appointees under paragraph (1) shall serve a term of  
19 two years and until their successors are appointed and  
20 qualified. No appointee shall serve more than four  
21 consecutive terms.

22 (4) An appointment to fill a vacancy created by a member  
23 appointed in accordance with paragraph (1) shall be for the  
24 remainder of the unexpired term. Individuals appointed to  
25 fill a vacancy may serve the maximum number of terms  
26 permitted under paragraph (3) following the expiration of the  
27 term related to the vacancy.

28 (5) A member of the board shall serve at the pleasure of  
29 the appointing authority.

30 (6) A member of the board shall serve at the pleasure of

1 the appointing authority.

2 Section 7. Powers of casino neighborhood improvement district  
3 management association.

4 (a) General powers.--An association shall have the power to:

5 (1) Prepare planning or feasibility studies or contract  
6 for the preparation of the same to determine needed district  
7 improvements, programs and services.

8 (2) Employ an executive director or administrator and  
9 any necessary supporting staff or contract for the provision  
10 of same.

11 (3) Make district improvements or provide district  
12 programs and services.

13 (4) Contract with existing businesses within the  
14 district.

15 (5) Contract for the provision of products or services  
16 by the association to clients located inside and outside the  
17 district.

18 (6) Appropriate and expend district funds, including any  
19 Federal, State or municipal funds received by the  
20 association. The funds shall be expended in accordance with  
21 any specific provisions contained in the ordinance  
22 establishing the district and this act, including:

23 (i) To acquire by purchase or lease real or personal  
24 property to effectuate the purposes of this act,  
25 including making district improvements.

26 (ii) To fund district programs and services.

27 (7) Impose a casino impact fee, with the approval of the  
28 governing body.

29 (8) Solicit in-kind services or financial contributions  
30 from tax-exempt property owners.

1           (9) Contract with off-duty police officers or private  
2 security officers to patrol the district and to support  
3 existing city and volunteer efforts aimed at reducing crime  
4 and improving security in the district.

5           (10) Designate a district advisory council for each  
6 district established within the city. Each council shall  
7 consist of an odd number of members, between five and nine,  
8 who shall be representative of the neighborhood's character,  
9 including age, gender and cultural diversity.

10 Section 8. Casino impact fee.

11       (a) Assessment.--The association may, upon approval of the  
12 governing body, assess a casino impact fee. The governing body  
13 shall approve the assessment of a casino impact fee through  
14 ordinance adopted in accordance with law.

15       (b) Notification.--Upon approving the assessment of a casino  
16 impact fee by the association, the governing body shall notify  
17 the Department of Revenue, which shall administer the assessment  
18 of the fee. The department shall determine the amount of the fee  
19 in the same manner as it determines the casino's daily slot  
20 machine tax and local share assessment pursuant to 4 Pa.C.S. §  
21 1403(b) (relating to establishment of State Gaming Fund and net  
22 slot machine revenue distribution).

23       (c) Trust.--All funds owed to the association under this  
24 subsection shall be held in trust by the licensed gaming entity  
25 and shall be paid or transferred to the city in the same manner  
26 as the casino's local share assessment pursuant to 4 Pa.C.S. §  
27 1403. Unless otherwise agreed to by the Pennsylvania Gaming  
28 Control Board, a casino shall establish a separate bank account  
29 to maintain the funds until they are paid or transferred under  
30 this subsection.



1 (d) Use of revenue.--Revenue generated by the fee  
2 transferred by the city to the association shall be used by the  
3 association to mitigate the impact of the casino on the  
4 residents and neighborhoods located within the district and to  
5 make improvements and provide programs and services within the  
6 district as authorized under this act.

7 (e) Rate.--The rate of the casino impact fee shall be based  
8 upon the estimated cost of the programs, improvements or  
9 services to be provided in the district as stated in the final  
10 plan under section 5(e). The total revenues received by the  
11 association during the year may not exceed the estimated cost of  
12 proposed programs, improvements and services for the year.

13 Section 9. Dissolution of casino neighborhood improvement  
14 district management association and casino  
15 neighborhood improvement district.

16 (a) Termination.--The procedure for terminating a district  
17 shall be as follows:

18 (1) If the property owners within the district seek to  
19 terminate the district, the property owners shall submit a  
20 petition, signed by 51% of the property owners within the  
21 district, excluding the owners of casino property, to the  
22 governing body. Within 30 days of receipt of the petition,  
23 the governing body shall hold a public hearing on the merits  
24 of the request. Notice of the hearing shall be provided in  
25 accordance with section 5(b)(2). If the governing body  
26 approves the request, the governing body shall repeal the  
27 ordinance enacting the district and the association and  
28 provide written notice of the termination to the Secretary of  
29 the Commonwealth. The secretary shall note the termination of  
30 the district and association on the association's record of

1 incorporation and provide a copy of the same to the governing  
2 body. Upon termination of the district and association, all  
3 property owned by the association shall pass to the city.

4 (2) If the governing body seeks to terminate the  
5 district, the governing body shall notify all property owners  
6 and lessees of property located in the district of its  
7 intention to terminate the district. No earlier than 30 days  
8 after providing notice to the property owners and lessees of  
9 its intent to terminate the district, the governing body  
10 shall hold a public hearing on the merits of the proposed  
11 termination. Notice of the hearing shall be provided in  
12 accordance with section 5(b)(2). Following the public  
13 hearing, the governing body shall establish a 45-day period  
14 during which affected property owners, excluding owners of a  
15 casino property, situated within the district may file  
16 written objections to the termination of the district.  
17 Written objections shall be signed by the property owner and  
18 filed with the office of the clerk of the governing body. If,  
19 at the close of the 45-day period, the governing body  
20 determines that 51% of the property owners within the  
21 district, excluding owners of casino property, whose property  
22 valuation as assessed for taxable purposes amounts to 51% of  
23 the total property valuation located within the district  
24 object to the termination of the district, the governing body  
25 shall not terminate the district. If less than 51% of the  
26 property owners described under this paragraph object to the  
27 termination of the district, the governing body may terminate  
28 the district by repealing the ordinance enacting the district  
29 and the association and provide written notice of the  
30 termination to the secretary. The secretary shall note the

1 termination of the district and association on the  
2 association's record of incorporation and provide a copy of  
3 the same to the governing body. Upon termination of the  
4 district and association, all property owned by the  
5 association shall pass to the city.

6 (b) Conveying projects.--When any association shall have  
7 finally paid and discharged all bonds, which together with the  
8 interest due thereon shall have been secured by a pledge of any  
9 of the revenues or receipts of a project, it may, subject to any  
10 agreements concerning the operation or disposition of the  
11 project and the association bylaws, convey the project or  
12 projects to the city.

13 Section 10. Annual audit and report.

14 The association shall annually do all of the following:

15 (1) Submit an audit of all income and expenditures to  
16 the Department of Community and Economic Development and the  
17 governing body within 120 days after the end of each fiscal  
18 year.

19 (2) Submit a report, including financial and  
20 programmatic information and a summary of audit findings, to  
21 the governing body and to all property owners in the  
22 district.

23 Section 20. Effective date.

24 This act shall take effect in 60 days.