THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL
No. 350 Session of 2023

INTRODUCED BY PHILLIPS-HILL, ROTHMAN, MARTIN, STEFANO, DUSH, J. WARD, MASTRIANO, AUMENT, HUTCHINSON AND BROOKS, FEBRUARY 2, 2023

SENIOR DUSH, INTERGOVERNMENTAL OPERATIONS, AS AMENDED, MAY 8, 2023

AN ACT

Providing for the administration of permits by State agencies, for a tracking system for permit applications, for the establishment of permit programs, for third-party review of permit decision delays and for annual reports; ESTABLISHING THE PENNSYLVANIA OFFICE OF TRANSFORMATION AND OPPORTUNITY AND THE ECONOMIC DEVELOPMENT STRATEGY GROUP; AND PROVIDING FOR THEIR POWERS AND DUTIES.

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

Section 1. Short title.

This act shall be known and may be cited as the Permit Administration AND ECONOMIC DEVELOPMENT Act.

Section 2. Definitions.

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

"Applicant." A person, corporation, municipality, municipal authority, political subdivision, State agency or an agency of the Federal Government, which submits an application for a
permit to a State agency.

"Application." A submission to a State agency by an applicant which seeks any of the following:

(1) A new permit.
(2) A permit renewal.
(3) A permit amendment.
(4) A permit modification.
(5) A permit transfer.
(6) A change of ownership of a permit.

"Completeness review." The process by which a State agency's staff reviews an application to determine if the application satisfies all of the applicable statutory and regulatory requirements.

"Incomplete application." An application which does not include all required documents and information necessary to perform a completeness review.

"OFFICE." THE PENNSYLVANIA OFFICE OF TRANSFORMATION AND OPPORTUNITY ESTABLISHED UNDER SECTION 11(A).

"Permit." For the purposes of this act, an authorization issued by a State agency which approves the performance of a regulated activity. The term includes authorization permits, certificates of public convenience, plan approvals and registrations under a general permit. The term does not include the following:

(1) A certification, license or permit issued to an individual for personal use.
(2) A certification, license or permit issued by the Pennsylvania Game Commission.

"Permit decision." The issuance or denial of a permit.

"Permit decision delay." The failure of a State agency to
issue a permit decision within:

(1) the time period specified by statute or regulation, including the time period specified under 4 Pa. Code Ch. 7a Subch. H (relating to permit decision guarantee for the Department of Environmental Protection); or

(2) 30 days after the submission of the permit application if there is no time period specified by statute or regulation, including 4 Pa. Code Ch. 7a Subch. H.

"Permit program." The program designed for the operation and management of permits which are subject to permit decision delays.

"Processing time." Beginning when the permit satisfies the completeness review, the total number of business days allowed by statute, regulation or State agency policy before a State agency must take final action on a permit decision.

"State agency." Any office, department, independent agency, authority, board or commission of the executive branch which issues permits.

"STRATEGY GROUP." THE ECONOMIC DEVELOPMENT STRATEGY GROUP ESTABLISHED UNDER SECTION 12(A).

"Technical review." A review of the technical aspects of an application to determine if the application satisfies all of the applicable statutory and regulatory requirements for permit issuance.

"Technically deficient application." An application that does not include all necessary documents and information in sufficient detail to perform a technical review.

"Third-party professional." An individual in this Commonwealth who possesses all of the requisite certifications and qualifications of an occupation relating to a permit.
administered by a State agency.

Section 3. Initial review of permits by State agencies. Within 60 days after the effective date of this section, a State agency shall review the State agency's permit decisions and permit decision delays during the immediately preceding calendar year and submit a report of findings to the General Assembly.

Section 4. Compilation of permits. (a) List of permits.--A State agency shall compile, maintain and make available a complete list of all types of permits issued by the State agency. The list, including any revisions to the list, shall be transmitted to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin and shall be posted on the State agency's publicly accessible Internet website. The list shall include, but not be limited to, the following information:

(1) The program under which each permit is issued.
(2) The statutory and regulatory authority for each permit.
(3) The time frame when the State agency must issue each permit.
(4) The average time frame within which each permit is actually issued.

(b) Time limit.--A State agency shall have 90 days from the effective date of this subsection to complete the initial list required under subsection (a).

Section 5. Tracking system for permit application. (a) Establishment.--A State agency shall establish, maintain and make available a secure tracking system for applicants to track the status of applications on the State agency's publicly
accessible Internet website within 180 days of the effective
date of this subsection.

(b) Notice.--Within five business days after receiving an
application, a State agency shall notify an applicant in writing
or by electronic means of the receipt and provide information
instructing the applicant in the utilization of the tracking
system established under subsection (a).

(c) System contents.--The tracking system shall include all
of the following:

(1) The processing time for each permit, the statutory
and regulatory authority and State agency policy establishing
the processing time.

(2) The dates associated with the receipt of each
permit, completeness review, technical review, elevated
review, if necessary, and the final permit decision.

(3) The estimated time remaining for each incomplete
phase of the permit approval process.

(4) The identity and contact information for the State
agency employee assigned to answer questions about the
application process.

Section 6. Notice of incomplete and technically deficient
applications.

(a) Notice.--If a State agency finds an incomplete
application or technically deficient application, the State
agency shall notify the applicant in writing or by electronic
means of all of the following:

(1) The statute or regulation which requires a
correction or additional information within the application.

(2) The reasons why the application is not in
conformance with the statute or regulation specified under
20230SB0350PN0718
paragraph (1) in clear language that is readily understandable by a layperson.

(3) The correction or additional information needed for the State agency to issue the permit.

(4) The procedure an applicant is required to employ to initiate an appeal of an adverse State agency decision.

(b) Time limit.--The following apply:

(1) If an application is determined to be incomplete, the State agency shall notify the applicant of the determination within 10 business days of receipt of the application.

(2) If an application is determined to be technically deficient, the State agency shall notify the applicant of the determination within 20 business days after the conclusion of a completeness review.

(C) TOLLING PERIOD.--IF THE STATE AGENCY DETERMINES THAT THE STATE AGENCY IS UNABLE TO ISSUE A DETERMINATION ON THE APPLICATION, THE STATE AGENCY SHALL SPECIFY THE INFORMATION THAT IS NECESSARY FOR THE APPLICANT TO RESUBMIT THE APPLICATION. THE DEADLINES UNDER SUBSECTION (B) SHALL TOLL DURING THE TIME PERIOD COMMENCING ON THE DATE WHEN THE APPLICANT RECEIVES THE NOTICE THAT THE APPLICATION IS AN INCOMPLETE APPLICATION OR TECHNICALLY DEFICIENT APPLICATION AND THE DATE WHEN THE STATE AGENCY RECEIVES THE APPLICANT'S RESUBMITTED APPLICATION. UPON RECEIPT OF THE APPLICANT'S RESUBMITTED APPLICATION, THE STATE AGENCY SHALL APPROVE OR DENY THE RESUBMITTED APPLICATION WITHIN THE NUMBER OF BUSINESS DAYS REMAINING IN THE TOLLED TIME PERIOD.

Section 7. Notice of permit changes and expiration.

A State agency shall notify a permit holder in writing or by electronic means of any of the following:
(1) The expiration date of a permit 60 days before the permit's expiration date.

(2) A change to a statute or regulation which may affect the permit.

(3) A change in permit fees which may affect the renewal of the permit.

Section 8. Validity of permits.

A permit issued prior to the effective date of a statute or regulation altering the requirements for the permit shall remain valid under the provisions by which the permit was granted, unless otherwise agreed to by all parties.

Section 9. Third-party review of permit decision delays.

(a) Establishment.—Within 180 days of the effective date of this subsection, a State agency shall establish a program to review permit decision delays and resolve issues causing permit decision delays.

(b) Third-party.—If a State agency has not established an internal process for an on-the-record, quasi-judicial review of the State agency's determinations, the State agency shall contract with a third-party professional to administer a program established under subsection (a) in accordance with 62 Pa.C.S. Pt. I (relating to Commonwealth procurement code). Payments to a third-party professional under this subsection shall consist of the remittance of any fees collected by a State agency from applicants whose applications are subject to a permit decision delay.

(c) Review.—A State agency shall, immediately after establishing a program under subsection (a), refer applications that have been submitted to the State agency and are subject to permit decision delay to a third-party professional for review.
and resolution. A permit application that becomes subject to permit decision delay after the establishment of a program under subsection (a) shall be submitted by the State agency to a third-party professional for review and resolution no later than three business days after the application becomes subject to permit decision delay.

(d) Issuance.--After a third-party professional's review of an application which is subject to a permit decision delay and the resolution of all issues causing the delay, the third-party professional shall transmit the application to the State agency for issuance of the permit.

(E) DEEMED APPROVAL OF PERMIT.--IF A STATE AGENCY RECEIVES A COMPLETED APPLICATION, A PERMIT DECISION DELAY OCCURS AND THE APPLICATION HAS NOT BEEN SUBMITTED TO A THIRD-PARTY PROFESSIONAL REVIEW AS REQUIRED UNDER SUBSECTION (C), THE APPLICATION SHALL BE DEEMED APPROVED AND THE STATE AGENCY SHALL ISSUE THE PERMIT.

Section 10. Annual reports.

No later than January 31 of each year, a State agency shall submit a report to the General Assembly that, at a minimum, shall contain the following information from the immediately preceding calendar year:

(1) The number of applications received.

(2) The number of applications reviewed by the State agency that received a decision without being referred to a third-party professional.

(3) The average time frame for permit decisions from the State agency on applications that received a decision without being referred to a third-party professional.

(4) The number of applications reviewed by third-party professionals.
(5) The average time frame for contracted third-party professionals to complete an application review.

(6) The number of State agency employees reviewing permit applications as organized by each regional office of the State agency, if applicable, and the number of applications each State employee reviewed.

SECTION 11. PENNSYLVANIA OFFICE OF TRANSFORMATION AND OPPORTUNITY.

(A) ESTABLISHMENT.--THE PENNSYLVANIA OFFICE OF TRANSFORMATION AND OPPORTUNITY IS ESTABLISHED WITHIN THE GOVERNOR'S OFFICE. THE OFFICE SHALL FACILITATE THE IMPLEMENTATION OF TRANSFORMATIONAL ECONOMIC DEVELOPMENT PROJECTS, WHICH WILL RESULT IN SUBSTANTIAL QUALITY JOB OPPORTUNITIES AND CAPITAL INVESTMENT IN THIS COMMONWEALTH BY:

(1) COORDINATING AND EXPEDITING INTERAGENCY COOPERATION;

(2) MARSHALING FEDERAL AND STATE RESOURCES TO MAXIMIZE ECONOMIC DEVELOPMENT OPPORTUNITIES FOR THIS COMMONWEALTH TO COMPETE, GROW AND THRIVE IN A GLOBAL ECONOMY; AND

(3) LEVERAGING THE ROLE OF THE GOVERNOR TO ENGAGE THE GLOBAL BUSINESS COMMUNITY ON BEHALF OF THE COMMONWEALTH.

(B) DUTIES.--THE OFFICE SHALL:

(1) CREATE A SYSTEMATIC PROCESS FOR MANAGING ECONOMIC DEVELOPMENT PROJECTS INVOLVING THE RESOURCES OF MULTIPLE STATE AGENCIES TO FACILITATE PROJECT MANAGEMENT.

(2) ESTABLISH AND MONITOR THE PROGRESS OF ADDITIONAL AREAS OF ECONOMIC DEVELOPMENT PROJECT SUPPORT, INCLUDING SERVING AS A ONE-STOP SHOP FOR COORDINATION OF STATE AGENCIES, EXPEDITING STATE AGENCY PERMIT AND LICENSE REVIEWS AND ENSURING SPEED OF BUSINESS REVIEW AND APPROVAL OF COMMONWEALTH ECONOMIC INCENTIVE PROGRAMS.
(3) Work in partnership with the Department of Community and Economic Development and all relevant state agencies in reviewing federal and state funding applications to ensure that they maximize the opportunity to attract transformational economic development projects.

(4) Establish objectives and targets for the implementation of transformative economic development projects prioritized by the governor for this commonwealth.

(5) Establish and monitor time-based standards for completion of each phase of a transformative economic development project.

(6) Work in partnership with the Department of Community and Economic Development and all relevant state agencies and coordinate with the governor's action team to ensure that thorough due diligence is performed for prioritized projects, which shall include:

(I) overall economic impact of the project.

(II) the validity of its business model and likelihood of positive impact on an identified priority industry or sector.

(III) the impact on communities that have been disadvantaged and underserved.

(IV) the strength of commitments for private financing of the project.

(7) Work in partnership with the Department of Community and Economic Development, all relevant state agencies and the governor to develop an overall economic development blueprint and strategy for this commonwealth in identifying key industry and sectors where this commonwealth has competitive advantages.
(C) STAFFING AND ADMINISTRATION.--

(1) THE GOVERNOR SHALL APPOINT A CHIEF TRANSFORMATION
AND OPPORTUNITY OFFICER OF THE OFFICE WHO SHALL SERVE AT THE
PLEASURE OF THE GOVERNOR AND COORDINATE THE IMPLEMENTATION
AND DEVELOPMENT OF THE DUTIES SPECIFIED IN THIS SECTION.

(2) THE CHIEF TRANSFORMATION AND OPPORTUNITY OFFICER MAY
HIRE STAFF, INCLUDING ECONOMIC DEVELOPMENT SPECIALISTS, TO
PERFORM THE DUTIES SPECIFIED IN THIS SECTION.

(3) THE CHIEF TRANSFORMATION AND OPPORTUNITY OFFICER
SHALL REPORT DIRECTLY TO THE GOVERNOR AND THE OFFICE SHALL
OPERATE FROM THE GOVERNOR'S OFFICE.

(D) REPORTS.--THE OFFICE SHALL PREPARE AND ISSUE AN ANNUAL
REPORT TO THE GOVERNOR WITH THE FIRST ANNUAL REPORT DUE DECEMBER
31, 2023, AND SUBSEQUENT REPORTS DUE DECEMBER 31 OF EACH
SUCCEEDING YEAR. THE ANNUAL REPORT SHALL INCLUDE AN ANALYSIS AND
EXAMINATION OF SIGNIFICANT ECONOMIC DEVELOPMENT OPPORTUNITIES
GAINED AND LOST BY THIS COMMONWEALTH WITHIN AN IDENTIFIED TIME
PERIOD AND RECOMMENDATIONS FOR IMPROVEMENT. THE REPORT SHALL BE
DELIVERED TO THE GOVERNOR OR THE GOVERNOR'S DESIGNEE.

SECTION 12. ECONOMIC DEVELOPMENT STRATEGY GROUP.

(A) ESTABLISHMENT.--THE ECONOMIC DEVELOPMENT STRATEGY GROUP
IS ESTABLISHED WITHIN THE GOVERNOR'S OFFICE.

(B) DUTY.--THE STRATEGY GROUP SHALL ADVISE THE GOVERNOR ON
ECONOMIC DEVELOPMENT PROJECTS AND PROCESSES TO ATTRACT AND
RETAIN EMPLOYERS, RECRUIT LEADERS OF INNOVATION AND CREATE
QUALITY JOBS IN THIS COMMONWEALTH.

(C) MEMBERSHIP.--

(1) THE STRATEGY GROUP SHALL BE CHAIRMED BY THE GOVERNOR
OR, IN THE GOVERNOR'S ABSENCE, BY THE CHIEF TRANSFORMATION
AND OPPORTUNITY OFFICER.
THE STRATEGY GROUP SHALL CONSIST OF THE FOLLOWING:

(I) THE SECRETARY OF AGRICULTURE.

(II) THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT.

(III) THE SECRETARY OF EDUCATION.

(IV) THE SECRETARY OF ENVIRONMENTAL PROTECTION.

(V) THE SECRETARY OF LABOR AND INDUSTRY.

(VI) THE SECRETARY OF TRANSPORTATION.

(VII) OTHER MEMBERS OF THE GOVERNOR'S CABINET, APPOINTED, ON AN INDIVIDUAL PROJECT BASIS, AT THE DISCRETION OF THE GOVERNOR.

(D) COMPENSATION PROHIBITED.--MEMBERS OF THE STRATEGY GROUP MAY NOT RECEIVE COMPENSATION FOR PERFORMANCE OF THEIR DUTIES ON THE STRATEGY GROUP.

Section 11. Construction.
Nothing in this act shall be construed to limit or otherwise alter a State agency's authority to revoke a permit for failure to comply with the laws of this Commonwealth.

Section 12. Effective date.
This act shall take effect in 60 days.