
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2564 Session of
2006

INTRODUCED BY MAITLAND, FLEAGLE, KAUFFMAN, CLYMER, CRAHALLA,
GRUCELA, HARPER, HERSHEY, MELIO, S. MILLER, SAYLOR, SCAVELLO,
SCHRODER AND E. Z. TAYLOR, APRIL 3, 2006

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, APRIL 3, 2006

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,
2 as amended, "An act to empower cities of the second class A,
3 and third class, boroughs, incorporated towns, townships of
4 the first and second classes including those within a county
5 of the second class and counties of the second through eighth
6 classes, individually or jointly, to plan their development
7 and to govern the same by zoning, subdivision and land
8 development ordinances, planned residential development and
9 other ordinances, by official maps, by the reservation of
10 certain land for future public purpose and by the acquisition
11 of such land; to promote the conservation of energy through
12 the use of planning practices and to promote the effective
13 utilization of renewable energy sources; providing for the
14 establishment of planning commissions, planning departments,
15 planning committees and zoning hearing boards, authorizing
16 them to charge fees, make inspections and hold public
17 hearings; providing for mediation; providing for transferable
18 development rights; providing for appropriations, appeals to
19 courts and penalties for violations; and repealing acts and
20 parts of acts," further providing for definitions; amending
21 provisions relating to municipal capital improvements; and
22 providing for building excise fees and for development
23 moratoriums.

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

26 Section 1. The definition of "impact fee" in section 502-A
27 of the act of July 31, 1968 (P.L.805, No.247), known as the
28 Pennsylvania Municipalities Planning Code, reenacted and amended

1 December 21, 1988 (P.L.1329, No.170) and added December 19, 1990
2 (P.L.1343, No.209), is amended and the section is amended by
3 adding a definition to read:

4 Section 502-A. Definitions.--The following words and phrases
5 when used in this article shall have the meanings given to them
6 in this section unless the context clearly indicates otherwise:

7 * * *

8 ["Impact fee," a charge or fee imposed by a municipality
9 against new development in order to generate revenue for funding
10 the costs of transportation capital improvements necessitated by
11 and attributable to new development.]

12 * * *

13 "Transportation impact fee," a charge or fee imposed by a
14 municipality against new development in order to generate
15 revenue for funding the costs of transportation capital
16 improvements necessitated by and attributable to new
17 development.

18 * * *

19 Section 2. Section 503-A of the act, amended or added
20 December 19, 1990 (P.L.1343, No.209) and June 22, 2000 (P.L.495,
21 No.68), is amended to read:

22 Section 503-A. Grant of Power.--(a) The governing body of
23 each municipality other than a county, in accordance with the
24 conditions and procedures set forth in this act, may enact,
25 amend and repeal transportation impact fee ordinances and,
26 thereafter, may establish, at the time of municipal approval of
27 any new development or subdivision, the amount of [an] a
28 transportation impact fee for any of the offsite public
29 transportation capital improvements authorized by this act as a
30 condition precedent to final plat approval under the

1 municipality's subdivision and land development ordinance. Every
2 ordinance adopted pursuant to this act shall include, but not be
3 limited to, provisions for the following:

4 (1) The conditions and standards for the determination
5 and imposition of transportation impact fees consistent with
6 the provisions of this act.

7 (2) The agency, body or office within the municipality
8 which shall administer the collection, disbursement and
9 accounting of transportation impact fees.

10 (3) The time, method and procedure for the payment of
11 transportation impact fees.

12 (4) The procedure for issuance of any credit against or
13 reimbursement of transportation impact fees which an
14 applicant may be entitled to receive consistent with the
15 provisions of this act.

16 (5) Exemptions or credits which the municipality may
17 choose to adopt. In this regard the municipality shall have
18 the power to:

19 (i) Provide a credit of up to 100% of the applicable
20 transportation impact fees for all new development and
21 growth which constitutes affordable housing to low- and
22 moderate-income persons.

23 (ii) Provide a credit of up to 100% of the
24 applicable transportation impact fees for growth which
25 are determined by the municipality to serve an overriding
26 public interest.

27 (iii) Exempt de [minimus] minimis applications from
28 transportation impact fee requirements. If such a policy
29 is adopted, the definition of de [minimus] minimis shall
30 be contained in the ordinance.

1 (b) No municipality shall have the power to require as a
2 condition for approval of a land development or subdivision
3 application the construction, dedication or payment of any
4 offsite improvements or capital expenditures of any nature
5 whatsoever or impose any contribution in lieu thereof, exaction
6 fee, or any connection, tapping or similar fee except as may be
7 specifically authorized under this act.

8 (c) No municipality may levy [an] a transportation impact
9 fee prior to the enactment of a municipal transportation impact
10 fee ordinance adopted in accordance with the procedures set
11 forth in this act, except as may be specifically authorized by
12 the provisions of this act. A transportation impact fee shall be
13 imposed by a municipality within a service area or areas only
14 where such fees have been determined and imposed pursuant to the
15 standards, provisions and procedures set forth herein.

16 (d) [Impact] Transportation impact fees may be used for
17 those costs incurred for improvements designated in the
18 transportation capital improvement program which are
19 attributable to new development, including the acquisition of
20 land and rights-of-way; engineering, legal and planning costs;
21 and all other costs which are directly related to road
22 improvements within the service area or areas, including debt
23 service. [Impact] Transportation impact fees shall not be
24 imposed or used for costs associated with any of the following:

25 (1) Construction, acquisition or expansion of municipal
26 facilities other than capital improvements identified in the
27 transportation capital improvements plan required by this
28 act.

29 (2) Repair, operation or maintenance of existing or new
30 capital improvements.

1 (3) Upgrading, updating, expanding or replacing existing
2 capital improvements to serve existing developments in order
3 to meet stricter safety, efficiency, environmental or
4 regulatory standards not attributable to new development.

5 (4) Upgrading, updating, expanding or replacing existing
6 capital improvements to remedy deficiencies in service to
7 existing development or fund deficiencies in existing
8 municipal capital improvements resulting from a lack of
9 adequate municipal funding over the years for maintenance or
10 capital construction costs.

11 (5) Preparing and developing the land use assumptions,
12 roadway sufficiency analysis and transportation capital
13 improvement plan, except that transportation impact fees may
14 be used for no more than a proportionate amount of the cost
15 of professional consultants incurred in preparing a roadway
16 sufficiency analysis of infrastructure within a specified
17 transportation service area, such allowable proportion to be
18 calculated by dividing the total costs of all road
19 improvements in the adopted transportation capital
20 improvement program within the transportation service area
21 attributable to projected future development within the
22 service area, as defined in section 504-A(e)(1)(iii), by the
23 total costs of all road improvements in the adopted
24 transportation capital improvement program within the
25 specific transportation service area, as defined in section
26 504-A.

27 (e) Nothing in this act shall be deemed to alter or affect a
28 municipality's existing power to require an applicant for
29 municipal approval of any new development or subdivision from
30 paying for the installation of onsite improvements as provided

1 for in a municipality's subdivision and land development
2 ordinance as authorized by this act.

3 (f) No municipality may delay or deny any application for
4 building permit, certificate-of-occupancy, development or any
5 other approval or permit required for construction, land
6 development, subdivision or occupancy for the reason that any
7 project of an approved capital improvement program has not been
8 completed.

9 (g) A municipality which has enacted an impact fee ordinance
10 on or before June 1, 1990, may for a period not to exceed one
11 year from the effective date of this article, adopt an impact
12 fee ordinance to conform with the standards and procedures set
13 forth in this article. Where a fee previously imposed pursuant
14 to an ordinance in effect on June 1, 1990, for transportation
15 improvements authorized by this article is greater than the
16 recalculated fee due under the newly adopted ordinance, the
17 individual who paid the fee is entitled to a refund of the
18 difference. If the recalculated fee is greater than the
19 previously paid fee, there shall be no additional charge.

20 (h) The powers provided by this section may be exercised by
21 two or more municipalities, other than counties, which have
22 adopted a joint municipal comprehensive plan pursuant to Article
23 XI through a joint municipal authority, subject to the
24 conditions and procedures set forth in this article.

25 Section 3. Sections 504-A(a), (b), (e), (f) and (g) and 505-
26 A of the act, amended June 22, 2000 (P.L.495, No.68), are
27 amended to read:

28 Section 504-A. Transportation Capital Improvements Plan.--

29 (a) (1) A transportation capital improvements plan shall be
30 prepared and adopted by the governing body of the

1 municipality prior to the enactment of any transportation
2 impact fee ordinance.

3 (2) In lieu of preparing a transportation capital
4 improvements plan, the governing body of the municipality may
5 elect to have the municipality's comprehensive plan and maps
6 serve as a transportation capital improvements plan, provided
7 that:

8 (i) the municipality's comprehensive plan and maps
9 contain the necessary information for the transportation
10 impact fee advisory committee and governing body to
11 perform the calculations, make the recommendations and
12 carry out other duties required by this article; and

13 (ii) the municipality's comprehensive plan and maps
14 have been adopted or revised within ten years of the date
15 of enactment of a transportation impact fee ordinance.

16 (3) The municipality shall provide qualified
17 professionals to assist the transportation impact fee
18 advisory committee or the planning commission in the
19 preparation of the transportation capital improvements plan
20 or the transportation elements of the municipality's
21 comprehensive plan and calculation of the transportation
22 impact fees to be imposed to implement the plan in accordance
23 with the procedures, provisions and standards set forth in
24 this act.

25 (b) (1) [An] A transportation impact fee advisory committee
26 shall be created by resolution of a municipality intending to
27 adopt a transportation impact fee ordinance. The resolution
28 shall describe the geographical area or areas of the
29 municipality for which the advisory committee shall develop
30 the land use assumptions and conduct the roadway sufficiency

1 analysis studies.

2 (2) The advisory committee shall consist of no fewer
3 than 7 nor more than 15 members, all of whom shall serve
4 without compensation. The governing body of the municipality
5 shall appoint as members of the advisory committee persons
6 who are either residents of the municipality or conduct
7 business within the municipality and are not employees or
8 officials of the municipality. Not less than [40%] 25% of the
9 members of the advisory committee shall be representatives of
10 the real estate, commercial and residential development, and
11 building industries. The municipality may also appoint
12 traffic or transportation engineers or planners to serve on
13 the advisory committee provided the appointment is made after
14 consultation with the advisory committee members. The traffic
15 or transportation engineers or planners appointed to the
16 advisory committee may not be employed by the municipality
17 for the development of or consultation on the roadways
18 sufficiency analysis which may lead to the adoption of the
19 transportation capital improvements plan.

20 (3) The governing body of the municipality may elect to
21 designate the municipal planning commission appointed
22 pursuant to Article II as the transportation impact fee
23 advisory committee. If the existing planning commission does
24 not include members representative of the real estate,
25 commercial and residential development, and building
26 industries at no less than [40%] 25% of the membership, the
27 governing body of the municipality shall appoint the
28 sufficient number of representatives of the aforementioned
29 industries who reside in the municipality or conduct business
30 within the municipality to serve as ad hoc voting members of

1 the planning commission whenever such commission functions as
2 the impact fee advisory committee.

3 (4) No transportation impact fee ordinance may be
4 invalidated as a result of any legal action challenging the
5 composition of the advisory committee which is not brought
6 within 90 days following the first public meeting of [said]
7 the advisory committee.

8 (5) The advisory committee shall serve in an advisory
9 capacity and shall have the following duties:

10 (i) To make recommendations with respect to land use
11 assumptions, the development of comprehensive road
12 improvements and transportation impact fees.

13 (ii) To make recommendations to approve, disapprove
14 or modify a capital improvement program by preparing a
15 written report containing these recommendations to the
16 municipality.

17 (iii) To monitor and evaluate the implementation of
18 a capital improvement program and the assessment of
19 transportation impact fees, and report annually to the
20 municipality with respect to the same.

21 (iv) To advise the municipality of the need to
22 revise or update the land use assumptions, capital
23 improvement program or transportation impact fees.

24 * * *

25 (e) (1) Utilizing the information provided by the land use
26 assumption and the roadway sufficiency analysis as the basis
27 for determination of the need for road improvements to remedy
28 existing deficiencies and accommodate future projected
29 traffic volumes, the advisory committee shall identify those
30 capital projects which the municipality should consider for

1 adoption in its transportation capital improvements plan and
2 shall recommend the delineation of the transportation service
3 area or areas. The capital improvement plan shall be
4 developed in accordance with generally accepted engineering
5 and planning practices. The capital improvement program shall
6 include projections of all designated road improvements in
7 the capital improvement program. The total cost of the road
8 improvements shall be based upon estimated costs, using
9 standard traffic engineering standards, with a 10% maximum
10 contingency which may be added to said estimate. These costs
11 shall include improvements to correct existing deficiencies
12 with identified anticipated sources of funding and timetables
13 for implementation. The transportation capital improvements
14 plan shall include the following components:

15 (i) A description of the existing highways, roads
16 and streets within the transportation service area and
17 the road improvements required to update, improve, expand
18 or replace such highways, roads and streets in order to
19 meet the preferred level of service and usage and
20 stricter safety, efficiency, environmental or regulatory
21 standards not attributable to new development.

22 (ii) A plan specifying the road improvements within
23 the transportation service area attributable to
24 forecasted pass-through traffic so as to maintain the
25 preferred level of service after existing deficiencies
26 identified by the roadway sufficiency analysis have been
27 remedied.

28 (iii) A plan specifying the road improvements or
29 portions thereof within the transportation service area
30 attributable to the projected future development,

1 consistent with the adopted land use assumptions, in
2 order to maintain the preferred level of service after
3 accommodation for pass-through traffic and after existing
4 deficiencies identified in the roadway sufficiency
5 analysis have been remedied.

6 (iv) The projected costs of the road improvements to
7 be included in the transportation capital improvements
8 plan, calculating separately for each project by the
9 following categories:

10 (A) The costs or portion thereof associated with
11 correcting existing deficiencies as specified in
12 subparagraph (i).

13 (B) The costs or portions thereof attributable
14 to providing road improvements to accommodate
15 forecasted pass-through trips as specified in
16 subparagraph (ii).

17 (C) The costs of providing necessary road
18 improvements or portions thereof attributable to
19 projected future development as specified in
20 subparagraph (iii), provided that no more than 50% of
21 the cost of the improvements to any highway, road or
22 street which qualifies as a State highway or portion
23 of the rural State highway system as provided in
24 section 102 of the act of June 1, 1945 (P.L.1242,
25 No.428), known as the "State Highway Law," may be
26 included.

27 (v) A projected timetable and proposed budget for
28 constructing each road improvement contained in the plan.

29 (vi) The proposed source of funding for each capital
30 improvement included in the road plan. This shall include

1 anticipated revenue from the Federal Government, State
2 government, municipality, transportation impact fees and
3 any other source. The estimated revenue for each capital
4 improvement in the plan which is to be provided by
5 transportation impact fees shall be identified separately
6 for each project.

7 (2) The source of funding required for projects to
8 remedy existing deficiencies as set forth in paragraph (1)(i)
9 and the road improvements attributable to forecasted pass-
10 through traffic as set forth in paragraph (1)(ii) shall be
11 exclusive of funds generated from the assessment of
12 transportation impact fees.

13 (3) Upon the completion of the transportation capital
14 improvements plan and prior to its adoption by the governing
15 body of the municipality and the enactment of a municipal
16 transportation impact fee ordinance, the advisory committee
17 shall hold at least one public hearing for consideration of
18 the plan. Notification of the public hearing shall comply
19 with the requirement of section 107. The plan shall be
20 available for public inspection at least ten working days
21 prior to the date of the public hearing. After presentation
22 of the recommendation by the advisory committee or its
23 representatives at a public meeting of the governing body,
24 the governing body may make such changes to the plan prior to
25 its adoption as the governing body deems appropriate
26 following review of the public comments made at the public
27 hearing.

28 (4) The governing body may periodically, but no more
29 frequently than annually, request the transportation impact
30 fee advisory committee to review the capital improvements

1 plan and transportation impact fee charges and make
2 recommendations for revisions for subsequent consideration
3 and adoption by the governing body based only on the
4 following:

5 (i) New subsequent development which has occurred in
6 the municipality.

7 (ii) Capital improvements contained in the capital
8 improvements plan, the construction of which has been
9 completed.

10 (iii) Unavoidable delays beyond the responsibility
11 or control of the municipality in the construction of
12 capital improvements contained in the plan.

13 (iv) Significant changes in the land use
14 assumptions.

15 (v) Changes in the estimated costs of the proposed
16 transportation capital improvements, which may be
17 recalculated by applying the construction cost index as
18 published in the American City/County magazine or the
19 Engineering News Record.

20 (vi) Significant changes in the projected revenue
21 from all sources listed needed for the construction of
22 the transportation capital improvements.

23 (f) Any improvements to Federal-aid or State highways to be
24 funded in part by transportation impact fees shall require the
25 approval of the Department of Transportation and, if necessary,
26 the United States Department of Transportation. Nothing in this
27 act shall be deemed to alter or diminish the powers, duties or
28 jurisdiction of the Department of Transportation with respect to
29 State highways or the rural State highway system.

30 (g) Two or more municipalities may, upon agreement, appoint

1 a joint transportation impact fee advisory committee which may
2 develop roadway sufficiency analyses and transportation capital
3 improvements plans for the participating municipalities. The
4 members of the joint advisory committee must be either residents
5 of or conduct business within one of the participating
6 municipalities.

7 Section 505-A. Establishment and Administration of Impact

8 Fees.--(a) (1) The transportation impact fee for

9 transportation capital improvements shall be based upon the
10 total costs of the road improvements included in the adopted
11 capital improvement plan within a given transportation
12 service area attributable to and necessitated by new
13 development within the service area as calculated pursuant to
14 section 504-A(e)(1)(iv)(C), divided by the number of
15 anticipated peak hour trips generated by all new development
16 consistent with the adopted land use assumptions and
17 calculated in accordance with the Trip Generation Manual
18 published by the Institute of Transportation Engineers,
19 fourth or subsequent edition as adopted by the municipality
20 by ordinance or resolution to equal a per trip cost for
21 transportation improvements within the service area.

22 (2) The specific transportation impact fee for a
23 specific new development or subdivision within the service
24 area for road improvements shall be determined as of the date
25 of preliminary land development or subdivision approval by
26 multiplying the per trip cost established for the service
27 area as determined in section 503-A(a) by the estimated
28 number of peak hour trips to be generated by the new
29 development or subdivision using generally accepted traffic
30 engineering standards.

1 (3) A municipality may authorize or require the
2 preparation of a special transportation study in order to
3 determine traffic generation or circulation for a new
4 nonresidential development to assist in the determination of
5 the amount of the transportation impact fee for such
6 development or subdivision. The municipality shall set forth
7 by ordinance the circumstances in which such a study should
8 be authorized or required, provided however, that no special
9 transportation study shall be required when there is no
10 deviation from the land use assumptions resulting in
11 increased density, intensity or trip generation by a
12 particular development. A developer or municipality may,
13 however, at any time, voluntarily prepare and submit a
14 traffic study for a proposed development or may have such a
15 study prepared at its expense after the development is
16 completed to include actual trips generated by the
17 development for use in any appeal as provided for under this
18 act. The special transportation study shall be prepared by a
19 qualified traffic or transportation engineer using procedures
20 and methods established by the municipality based on
21 generally accepted transportation planning and engineering
22 standards. The study, where required by the municipality,
23 shall be submitted prior to the imposition of [an] a
24 transportation impact fee and shall be taken into
25 consideration by the municipality in increasing or reducing
26 the amount of the transportation impact fee for the new
27 development for the amount shown on the transportation impact
28 fee schedule adopted by the municipality.

29 (b) The governing body shall enact [an] a transportation
30 impact fee ordinance setting forth a description of the

1 boundaries and a transportation impact fee schedule for each
2 transportation service area. At least ten working days prior to
3 the adoption of the ordinance at a public meeting, the ordinance
4 shall be available for public inspection. The transportation
5 impact fee ordinance shall include, but not be limited to, those
6 provisions set forth in section 503-A(a) and conform with the
7 standards, provisions and procedures set forth in this act.

8 (c) (1) A municipality may give notice of its intention to
9 adopt [an] a transportation impact fee ordinance by
10 publishing a statement of such intention twice in one
11 newspaper of general circulation in the municipality. The
12 first publication shall not occur before the adoption of the
13 resolution by which the municipality establishes its
14 transportation impact fee advisory committee. The second
15 publication shall occur not less than one nor more than three
16 weeks thereafter.

17 (2) A municipal transportation impact fee ordinance
18 adopted under and pursuant to this act may provide that the
19 provisions of the ordinance may have retroactive application,
20 for a period not to exceed 18 months after the adoption of
21 the resolution [creating an] establishing a transportation
22 impact fee advisory committee pursuant to section 504-
23 A(b)(1), to preliminary or tentative applications for land
24 development, subdivision or PRD with the municipality on or
25 after the first publication of the municipality's intention
26 to adopt [an] a transportation impact fee ordinance;
27 provided, however, that the transportation impact fee imposed
28 on building permits for construction of new development
29 approved pursuant to such applications filed during the
30 period of [pendancy] pendency shall not exceed \$1,000 per

1 anticipated peak hour trip as calculated in accordance with
2 the generally accepted traffic engineering standards as set
3 forth under the provisions of subsection (a)(1) or the
4 subsequently adopted fee established by the ordinance,
5 whichever is less.

6 (3) No action upon an application for land development,
7 subdivision or PRD shall be postponed, delayed or extended by
8 the municipality because adoption of a municipal
9 transportation impact fee ordinance is being considered.

10 Furthermore, the adoption of [an] a transportation impact fee
11 ordinance more than 18 months after adoption of a resolution
12 [creating the] establishing the transportation impact fee
13 advisory committee shall not be retroactive or applicable to
14 plats submitted for preliminary or tentative approval prior
15 to the legal publication of the proposed transportation
16 impact fee ordinance and any transportation impact fees
17 collected pursuant to this subsection shall be refunded to
18 the payor of such fees; provided the adoption of the
19 transportation impact fee ordinance was not delayed due to
20 the initiation of any litigation challenging the adoption of
21 such ordinance.

22 (d) Any transportation impact fees collected by a
23 municipality pursuant to a municipal transportation impact fee
24 ordinance shall be deposited by the municipality into an
25 interest-bearing fund account designated solely for
26 transportation impact fees, clearly identifying the
27 transportation service area from which the transportation impact
28 fee was received. Funds collected in one transportation service
29 area must be accounted for and expended within that
30 transportation service area, and such funds shall only be

1 expended for that portion of the transportation capital
2 improvements identified as being funded by transportation impact
3 fees under the transportation capital improvements plan.
4 Notwithstanding any other provisions of this act, municipalities
5 may expend transportation impact fees paid by an applicant on
6 projects not contained in the adopted transportation capital
7 improvement plan or may provide credit against transportation
8 impact fees for the value of any construction projects not
9 contained in the transportation capital improvement plan which
10 are performed at the applicant's expense if all of the following
11 criteria are met:

12 (1) The applicant has provided written consent to use of
13 its collected transportation impact fees or the provision of
14 such credit against the applicant's transportation impact
15 fees for specific transportation projects which are not
16 included in the transportation capital improvement plan.

17 (2) The alternative transportation projects, whether
18 highway or multimodal, have as their purpose the reduction of
19 traffic congestion or the removal of vehicle trips from the
20 roadway network.

21 (3) The municipality amends its transportation capital
22 improvement plan components required by section 504-
23 A(e)(1)(vi) to provide replacement of the collected
24 transportation impact fees transferred to transportation
25 projects outside the approved transportation capital
26 improvement plan from sources other than transportation
27 impact fees or developer contributions within three years of
28 completion of the alternative projects to which the
29 transferred transportation impact fees were applied or for
30 which credit was provided. All interest earned on such funds

1 shall become funds of that account. The municipality shall
2 provide that an accounting be made annually for any fund
3 account containing transportation impact fee proceeds and
4 earned interest. Such accounting shall include, but not be
5 limited to, the total funds collected, the source of the
6 funds collected, the total amount of interest accruing on
7 such funds and the amount of funds expended on specific
8 transportation improvements. Notice of the availability of
9 the results of the accounting shall be included and published
10 as part of the annual audit required of municipalities. A
11 copy of the report shall also be provided to the
12 transportation advisory committee.

13 (e) All transportation impact fees imposed under the terms
14 of this act shall be payable at the time of the issuance of
15 building permits for the applicable new development or
16 subdivision. The municipality may not require the applicant to
17 provide a guarantee of financial security for the payment of any
18 transportation impact fees, except the municipality may provide
19 for the deposit with the municipality of financial security in
20 an amount sufficient to cover the cost of the construction of
21 any road improvement contained in the transportation capital
22 improvement plan which is performed by the applicant.

23 (f) An applicant shall be entitled to a credit against the
24 transportation impact fee in the amount of the fair market value
25 of any land dedicated by the applicant to the municipality for
26 future right-of-way, realignment or widening of any existing
27 roadways or for the value of any construction of road
28 improvements contained in the transportation capital improvement
29 program which is performed at the applicant's expense. The
30 amount of such credit for any capital improvement constructed

1 shall be the amount allocated in the capital improvement
2 program, including contingency factors, for such work. The fair
3 market value of any land dedicated by the applicant shall be
4 determined as of the date of the submission of the land
5 development or subdivision application to the municipality.

6 (g) [Impact] Transportation impact fees previously collected
7 by a municipality shall be refunded, together with earned
8 accrued interest thereon, to the payor of [such] the
9 transportation impact fees from the date of payment under any of
10 the following circumstances:

11 (1) In the event that a municipality terminates or
12 completes an adopted capital improvements plan for a
13 transportation service area and there remains at the time of
14 termination or completion undispersed funds in the accounts
15 established for that purpose, the municipality shall provide
16 written notice by certified mail to those persons who
17 previously paid the transportation impact fees which remain
18 undispersed of the availability of said funds for refund of
19 the person's proportionate share of the fund balance. The
20 allocation of the refund shall be determined by generally
21 accepted accounting practices. In the event that any of the
22 funds remain unclaimed following one year after the notice,
23 which notice shall be provided to the last known address
24 provided by the payor of the transportation impact fees to
25 the municipality, the municipality shall be authorized to
26 transfer any funds so remaining to any other fund in the
27 municipality without any further obligation to refund said
28 funds.

29 (2) If the municipality fails to commence construction
30 of any transportation service area road improvements within

1 three years of the scheduled construction date set forth in
2 the transportation capital improvements plan, any person who
3 paid any transportation impact fees pursuant to that
4 transportation capital improvements plan shall, upon written
5 request to the municipality, receive a refund of that portion
6 of the transportation impact fee attributable to the
7 contribution for the uncommenced road improvement, plus the
8 interest accumulated thereon from the date of payment.

9 (3) If, upon completion of any road improvements
10 project, the actual expenditures of the capital project are
11 less than 95% of the costs properly allocable to the
12 transportation impact fee paid within the transportation
13 service area in which the completed road improvement was
14 adopted, the municipality shall refund the pro rata
15 difference between the budgeted costs and the actual
16 expenditures, including interest accumulated thereon from the
17 date of payment, to the person or persons who paid the
18 transportation impact fees for such improvements.

19 (4) If the new development for which transportation
20 impact fees were paid is not commenced prior to the
21 expiration of building permits issued for the new development
22 within the time limits established by applicable building
23 codes within the municipality or if the building permit as
24 issued for the new development is altered and the alteration
25 results in a decrease in the amount of the transportation
26 impact fee due in accordance with the calculations set forth
27 in subsection (a)(1).

28 (h) Where [an] a transportation impact fee ordinance has
29 been adopted pursuant to the other provisions of this act, the
30 ordinance may impose an additional transportation impact fee

1 upon new developments which generate 1,000 or more new peak hour
2 trips, net of pass-by trips as defined by the current edition of
3 the Institute of Transportation Engineers Trip Generation
4 Manual, during the peak hour period designated in the ordinance.
5 In such case, the transportation impact fee ordinance adopted
6 under this act may require the applicant for such a development
7 to perform a traffic analysis of development traffic impact on
8 highways, roads or streets outside the transportation service
9 area in which the development site is located but within the
10 boundaries of the municipality or municipalities adopting a
11 joint municipal transportation impact fee ordinance or
12 municipalities which are participating in a joint municipal
13 authority authorized to impose transportation impact fees by
14 this article. Any such highways, roads or streets or parts
15 thereof outside the transportation service area which will
16 accommodate 10% or more of development traffic and 100 or more
17 new peak hour trips may be required to be studied, and the
18 ordinance may require the applicant to mitigate the traffic
19 impacts of the development on such highways, roads and streets
20 to maintain the predevelopment conditions after completion of
21 the development.

22 Section 4. Section 506-A of the act, added December 19, 1990
23 (P.L.1343, No.209), is amended to read:

24 Section 506-A. Appeals.--(a) Any person required to pay
25 [an] a transportation impact fee shall have the right to contest
26 the land use assumptions, the development and implementation of
27 the transportation capital improvement program, the imposition
28 of transportation impact fees, the periodic updating of the
29 transportation capital improvement program, the refund of
30 transportation impact fees and all other matters relating to

1 transportation impact fees, including the constitutionality or
2 validity of the transportation impact fee ordinance by filing an
3 appeal with the court of common pleas.

4 (b) A master may be appointed by the court to hear testimony
5 on the issues and return the record and a transcript of the
6 testimony, together with a report and recommendations, or the
7 court may appoint a master to hold a nonrecord hearing and to
8 make recommendations and return the same to the court, in which
9 case either party may demand a hearing de novo before the court.

10 (c) Any cost incurred by parties in such an appeal shall be
11 the separate responsibility of the parties.

12 Section 5. Section 508-A of the act, added June 22, 2000
13 (P.L.495, No.68), is amended to read:

14 Section 508-A. Joint Municipal Transportation Impact Fee
15 Ordinance.--(a) For the purpose of permitting municipalities
16 which cooperatively plan for their future to also provide for
17 transportation capital improvements in a cooperative manner, the
18 governing bodies of each municipality which has adopted a joint
19 municipal comprehensive plan pursuant to Article XI in
20 accordance with the conditions and procedures set forth in this
21 article may cooperate with one or more municipalities to enact,
22 amend and repeal joint transportation impact fee ordinances to
23 accomplish the purposes of this act in accordance with this
24 article.

25 (b) The procedures set forth in this article shall be
26 applicable to the enactment of a joint municipal transportation
27 impact fee ordinance.

28 (c) Each municipality party to a joint municipal
29 transportation impact fee ordinance shall approve the advisory
30 committee and shall adopt the land use assumptions, roadway

1 sufficiency analysis, capital improvement plan and ordinances
2 and amendments thereto in accordance with the procedures in this
3 article, and no such ordinance shall become effective until it
4 has been properly adopted by all the participating
5 municipalities.

6 Section 6. The act is amended by adding an article to read:

7 ARTICLE V-B

8 GROWTH COUNTIES

9 SUBARTICLE A

10 PRELIMINARY PROVISIONS

11 Section 501-B. Legislative findings and intent.

12 The General Assembly finds and declares as follows:

13 (1) Certain counties of this Commonwealth are
14 experiencing rapid population growth. While population growth
15 is usually desirable, it also creates a special set of
16 challenges for municipal and school district officials. In
17 these cases, officials in high-growth counties may need
18 special powers to address problems created by high rates of
19 growth. For the purposes of this article, the General
20 Assembly designates these growth counties as a separate
21 classification.

22 (2) It is the public policy of this Commonwealth to
23 protect the public health, safety and general welfare of its
24 citizens by providing an equitable program for the planning
25 and financing of adequate public facilities to serve growth
26 and new development.

27 (3) By enacting these provisions, the General Assembly
28 intends to encourage and promote each of the following:

29 (i) Adequate public facilities to serve growth and
30 new development.

1 (ii) Orderly growth and development that does not
2 place an undue financial burden on existing taxpayers.

3 (iii) Standards for apportioning the fair share of
4 the cost of new or upgraded public facilities that serve
5 new growth and development among those who will benefit.

6 Section 502-B. Definitions.

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

10 "Growth county." A county that grew by 0.75% or more in the
11 preceding three consecutive fiscal years, as estimated by the
12 Pennsylvania State Data Center of the United States Census
13 Bureau.

14 Section 503-B. Powers for growth counties.

15 (a) Authority.--

16 (1) A municipality in a growth county may enact
17 ordinances and a school district in a growth county may adopt
18 resolutions as authorized in this article. Initial ordinances
19 or resolutions shall be in effect for at least three years.

20 (2) Once a county's rate of growth falls below 0.75% for
21 three consecutive years as estimated by the Pennsylvania
22 State Data Center of the United States Census Bureau, the
23 municipalities and school districts within the county may not
24 adopt new growth county ordinances or resolutions, but may
25 continue to administer and enforce existing ordinances or
26 resolutions enacted under this article.

27 (3) Once a county's growth rate falls below 0.5% as
28 estimated by the Pennsylvania State Data Center of the United
29 States Census Bureau for three consecutive years,
30 municipalities and school districts within the county may no

1 longer administer or enforce existing ordinances or
2 resolutions enacted under this article.

3 (b) Building excise fee.--The governing body of each
4 municipality, other than a county, within a growth county may by
5 ordinance and a school district located within a growth county
6 may by resolution adopt a building excise fee as provided for in
7 Subarticle B.

8 (c) Realty transfer tax.--The governing body of a growth
9 county may by ordinance impose an additional 1% realty transfer
10 tax levied under the authority of the act of March 4, 1971
11 (P.L.6, No.2), known as the Tax Reform Code of 1971. Fifty
12 percent of the revenue from this additional tax shall be used by
13 the county to fund agricultural land and open space preservation
14 programs. Fifty percent of the revenue shall be distributed to
15 school districts in the county for general fund expenditures.

16 (d) Moratorium.--A municipality within a growth county may
17 adopt moratoriums on the issuance of building permits when such
18 building would exceed the capacity of the infrastructure to
19 support it as provided in Subarticle C.

20 SUBARTICLE B

21 BUILDING EXCISE FEE

22 Section 504-B. Establishment of tax.

23 (a) Authority.--The governing body of each municipality,
24 other than a county, located within a growth county may by
25 ordinance and a school district located within a growth county
26 may by resolution adopt a building excise fee in accordance with
27 this subarticle.

28 (b) School districts and municipalities within more than one
29 county.--For the purposes of this subarticle, a school district
30 or municipality that crosses county lines shall be considered to

1 be within a growth county if at least two-thirds of the
2 residents of the school district or municipality live in the
3 growth county.

4 (c) Contents of ordinance or resolution.--Every ordinance or
5 resolution adopted pursuant to this subarticle shall include,
6 but not be limited to, provisions for the following:

7 (1) The conditions and standards for the determination
8 and imposition of building excise fees consistent with the
9 provisions of this subarticle.

10 (2) The agency, body or office within the municipality
11 that shall administer the collection, disbursement and
12 accounting of building excise fees.

13 (3) The time, method and procedure for the payment of
14 building excise fees.

15 (4) The procedure for issuance of any credit against or
16 reimbursement of building excise fees that an applicant may
17 be entitled to receive consistent with the provisions of this
18 act.

19 (5) Exemptions or credits that the municipality may
20 choose to adopt. In this regard the municipality may:

21 (i) Provide a credit of up to 100% of the applicable
22 building excise fees for all new development and growth
23 that constitutes affordable housing to low-income and
24 moderate-income persons.

25 (ii) Provide a credit of up to 100% of the
26 applicable building excise fees for growth that is
27 determined by the municipality to serve an overriding
28 public interest.

29 (iii) Exempt de minimis applications from building
30 excise fee requirements. If such a policy is adopted, the

1 definition of de minimis shall be contained in the
2 ordinance.

3 Section 505-B. Definitions.

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

7 "Agricultural building." An agricultural building as defined
8 in the act of November 10, 1999 (P.L.491, No.45), known as the
9 Pennsylvania Construction Code Act.

10 "Building." A structure used or intended for supporting or
11 sheltering any use or occupancy. The term does not include a
12 temporary structure.

13 "Code administrator." A municipal code official, a
14 construction code official, a third-party agency or the
15 Department of Labor and Industry pursuant to the act of November
16 10, 1999 (P.L.491, No.45), known as the Pennsylvania
17 Construction Code Act.

18 "Construction." Construction of a building that requires a
19 building permit pursuant to the act of November 10, 1999
20 (P.L.491, No.45), known as the Pennsylvania Construction Code
21 Act. Where the building replaces an existing building, the term
22 does not include replacement of a building due to casualty or
23 loss within one year of that casualty or loss or replacement of
24 a mobile home on a site, except that the gross square footage of
25 the replacement building or replacement mobile home exceeds the
26 gross square footage of the building or mobile home being
27 replaced.

28 "Dwelling unit." A single unit providing complete,
29 independent living facilities for one or more persons, including
30 permanent provisions for living, sleeping, eating or cooking and

1 sanitation.

2 "Fee." The building excise fee authorized under this
3 subarticle.

4 "Fund." The building excise fee fund of a municipality or
5 school district established under section 511-B.

6 "Governing body." The council of a city, borough or town,
7 the board of commissioners of a first class township, the board
8 of supervisors of a second class township and the board of
9 school directors of a school district.

10 "Gross square footage." The entire square footage of a
11 construction, including all finished and unfinished areas of the
12 construction.

13 "Habitable structure." A structure used for living,
14 sleeping, eating or cooking.

15 "Multifamily residential construction." Construction of a
16 residential building containing more than one dwelling unit,
17 including, without limitation, semi-detached, two-family
18 townhouse and multifamily units.

19 "Nonresidential addition construction." Construction of a
20 nonresidential addition to a nonresidential building where the
21 work requires a building permit and the addition increases the
22 number of gross square feet of the nonresidential building.

23 "Residential addition construction." Construction of a
24 residential addition to a residential building where the work
25 requires a building permit and the addition increases the number
26 of gross square feet of the residential building but does not
27 add a new dwelling unit.

28 "Residential construction." A building that contains one or
29 more dwelling units. The term includes, but is not limited to, a
30 boarding house. The term does not include institutional uses or

1 transient accommodations such as hotels, country inns or bed and
2 breakfast inns. The term "residential" includes all finished and
3 unfinished areas that are contained within a residential
4 building, such as basements, but does not include attached
5 garages, attics, crawl spaces or nonresidential uses.

6 Section 506-B. Amount of fee for residential building
7 construction.

8 (a) Base building excise fee.--The combined amount of the
9 building excise fee imposed by a municipality and school
10 district for residential construction shall be as follows:

11 (1) Residential multifamily construction - not to exceed
12 \$15,500 per unit.

13 (2) Residential single-family construction - not to
14 exceed \$13,000 per unit.

15 (b) Subdivisions over 25 units under certain conditions.--

16 For an applicant that applies for building permits for more than
17 25 residential units for a single subdivision in one fiscal year
18 the combined amount of the building excise fee imposed by a
19 municipality and school district, beginning with the 26th unit,
20 if the development of the subdivision is in a school district
21 where a school is at or above 90% of the rated pupil capacity,
22 or causes the roads or intersection within one centerline mile
23 in any direction of any new street connecting the subdivision to
24 be lower than a level of service D, as set forth in the Highway
25 Capacity Manual, Special Report 209, of the Transportation
26 Research Board, shall be as follows:

27 (1) Residential multifamily construction - not to exceed
28 \$31,000 per unit.

29 (2) Residential single-family construction - not to
30 exceed \$26,000 per unit.

1 (c) Calculation of amounts.--The amount of the building fee
2 to be paid by an applicant shall be determined by the municipal
3 code administrator or school district manager.

4 (d) Interpretation.--All phases or sections of a single
5 development shall be considered a single subdivision for the
6 purpose of this subarticle, in the discretion of the code
7 administrator.

8 (e) Piecemeal applications.--An applicant for a building
9 permit shall not avoid the intent of this subarticle by
10 submitting piecemeal applications for building permits. However,
11 an applicant may seek approval of only a portion of the
12 subdivision or development, provided that the impact from all
13 previously approved building permits from that development shall
14 be considered during the building permit review of each
15 subsequent portion of the development.

16 (f) Fee sharing.--

17 (1) Except as otherwise provided under paragraphs (2)
18 and (3), a municipality and the school district shall each be
19 entitled to 50% of the fee.

20 (2) Where only the municipality or the school district
21 levies the fee, the entity levying the fee may collect the
22 entire amount.

23 (3) A municipality and school district may jointly agree
24 to share the fee in percentages other than 50%.

25 Section 507-B. Amount of fee for nonresidential building
26 construction.

27 (a) General rule.--The maximum amount of the fee for the
28 municipality and school district on nonresidential construction
29 shall be as set forth in the following table. For a mixed-use
30 building, the fee shall be imposed on the basis of the primary

1 use of the building as determined by the code administrator,
 2 giving primary consideration to the use that occupies the
 3 majority of the space in the building.

	<u>Retail</u>	<u>Industrial</u>	<u>Warehouse/ Distribution</u>	<u>Office</u>	<u>Hotels/ Motels</u>
6 <u>Less than 25,000</u>					
7 <u>square feet</u>	<u>\$5.00</u>	<u>\$2.00</u>	<u>\$2.50</u>	<u>\$1.50</u>	<u>\$5.00</u>
8 <u>25,001 - 50,000</u>					
9 <u>square feet</u>	<u>5.00</u>	<u>1.50</u>	<u>2.00</u>	<u>1.50</u>	<u>4.50</u>
10 <u>50,001 - 100,000</u>					
11 <u>square feet</u>	<u>5.00</u>	<u>1.00</u>	<u>1.50</u>	<u>1.20</u>	<u>4.00</u>
12 <u>100,001 - 250,000</u>					
13 <u>square feet</u>	<u>4.50</u>	<u>.60</u>	<u>1.10</u>	<u>1.00</u>	<u>3.00</u>
14 <u>250,001 - 500,000</u>					
15 <u>square feet</u>	<u>4.00</u>	<u>.40</u>	<u>.90</u>	<u>.75</u>	<u>2.00</u>
16 <u>Greater than</u>					
17 <u>500,000</u>					
18 <u>square feet</u>	<u>3.50</u>	<u>.20</u>	<u>.70</u>	<u>.50</u>	<u>2.00</u>

19 (b) Regulations.--The governing body may adopt regulations
 20 to provide for the application of different rates or exemptions
 21 for different nonresidential building types and uses.

22 (c) Alternative contributions.--

23 (1) The governing body may consider alternative
 24 contributions toward satisfaction of the amount computed in
 25 section 506-B and this section, or a combination thereof, as
 26 determined acceptable to the governing body.

27 (2) Should such alternatives include real property for a
 28 new school or municipal facility, the governing body shall
 29 determine acceptability of the site size, shape and
 30 functionality.

1 (3) The value attributable to contributions shall be in
2 the sole discretion of the governing body, except that value
3 attributable to real property shall be based on at least one
4 appraisal of the real property.

5 (d) Fee sharing.--

6 (1) Except as otherwise provided under paragraphs (2)
7 and (3), a municipality and the school district shall each be
8 entitled to 50% of the building excise fee.

9 (2) Where only the municipality or the school district
10 levies the fee, the entity levying the fee may collect the
11 entire amount.

12 (3) The municipality and school district may jointly
13 agree to share the fee in percentages other than 50%.

14 (e) Construction.--For purposes of this section, a
15 campground and similar facility shall be construed as hotels and
16 motels.

17 Section 508-B. Payment of fee.

18 (a) Fee paid before issuance of building permit.--An
19 applicant for a building permit shall pay the fee before the
20 issuance of a building permit.

21 (b) Refunds or credits.--

22 (1) The municipality or school district shall provide a
23 refund or credit fee paid by an applicant if the building
24 permit is canceled or expires so long as work has not
25 commenced.

26 (2) If, upon appeal by an applicant who has paid the
27 fee, the governing body of the municipality or school
28 district determines that the municipal code administrator or
29 school district business manager erred in calculating the
30 fee, the municipality or school district shall provide a

1 refund or credit to the applicant of the difference between
2 the amount of the fee paid by the applicant and the correct
3 amount.

4 Section 509-B. Exemptions.

5 (a) Farm construction.--

6 (1) An agricultural building shall not be subject to the
7 fee so long as the construction continues to be actively used
8 for nonresidential farm or agricultural use.

9 (2) Should the construction be used for some purpose
10 other than active nonresidential farm or agricultural use,
11 then the fee shall be remitted to the municipality or school
12 district the then-existing amount of the fee.

13 (3) Construction for the purpose of residence by
14 employees of the farm or other agricultural operation shall
15 not be considered farm or agricultural use for the purposes
16 of this subarticle.

17 (b) Government construction.--No fee shall be imposed on
18 construction by the Federal Government, the Commonwealth, a
19 county, municipality or municipal authority.

20 (c) Nonresidential addition construction.--The fee shall be
21 imposed on that portion of any nonresidential addition
22 construction that exceeds the gross square footage of the
23 nonresidential building prior to the commencement of
24 construction for which a building permit has been issued.

25 (d) Other exemptions.--No fee shall be imposed on a:

26 (1) Residential accessory structure that is not a
27 habitable structure.

28 (2) Residential addition construction that does not add
29 a dwelling unit.

30 (3) Construction of public elementary or secondary

1 schools.

2 (4) Construction in a redevelopment area as defined in
3 the act of May 24, 1945 (P.L.991, No.385), known as the Urban
4 Redevelopment Law.

5 (5) New construction of a resident unit:

6 (i) developed according to Federal regulations
7 restricting occupancy in the dwelling units to elderly
8 persons; or

9 (ii) whose occupation is restricted, by covenant
10 recorded among the county land records, to persons 55
11 years of age or older.

12 (6) Nonresidential construction within enterprise zones.

13 (7) New nonretail nonresidential construction with a
14 total area of fewer than 5,000 square feet.

15 (8) Structures:

16 (i) Owned by corporations organized and operated
17 exclusively for religious purposes within the meaning of
18 section 501 of the Internal Revenue Code of 1986 (Public
19 Law 99-514, 26 U.S.C. § 501 et seq.).

20 (ii) Used primarily for religious, educational and
21 community purposes.

22 Section 510-B. Change in use.

23 (a) Credits and refunds.--

24 (1) Upon receipt of a building permit application, the
25 code administrator shall determine whether it is for a change
26 in use. In such a case, the fee shall be imposed based on the
27 use applied for in the building permit application.

28 (2) A credit or refund shall be granted for any fee
29 previously paid for the construction.

30 (3) No refund shall be granted if the credit for any fee

1 previously paid exceeds the amount of this fee imposed.

2 (4) A change in use of property from multifamily to
3 single family shall not entitle the owner to a credit or
4 refund of a fee previously paid.

5 (b) Conversion from nonresidential to residential.--When an
6 existing building is subject to construction pursuant to a
7 building permit that converts its use from residential to
8 nonresidential, it shall be subject to the regulations adopted
9 pursuant to this subarticle.

10 (c) Conversion from residential to nonresidential.--When an
11 existing building is subject to construction pursuant to a
12 building permit that converts its use from residential to
13 nonresidential, it shall be subject to the regulations adopted
14 pursuant to this subarticle.

15 Section 511-B. Building excise fee fund.

16 (a) Establishment.--The municipality or school district
17 shall establish a nonlapsing fund to be known as a building
18 excise fee fund. All revenues from the building excise fee shall
19 be deposited in the fund. Interest earned by money in the fund
20 shall accrue to the fund.

21 (b) Use of fund for nonresidential building types by
22 municipalities.--Revenues deposited in the fund that are
23 generated by the fee imposed on nonresidential building types
24 may only be used for:

25 (1) Public safety capital expenditures.

26 (2) Public infrastructure projects.

27 (3) Debt reduction related to capital improvements
28 expenditures.

29 (c) Use of fund for nonresidential building types by school
30 districts.--Revenues deposited in the fund that are generated by

1 the fee imposed on nonresidential building types may only be
2 used for:

3 (1) Primary or secondary education capital expenditures
4 subject to subsection (f)(2).

5 (2) Debt reduction related to capital improvements
6 expenditures.

7 (d) Use of fund for single-family and multifamily
8 residential units by municipalities.--The revenues from the fee
9 imposed on single-family residential units or multifamily
10 residential units may only be used for:

11 (1) Roads.

12 (2) Public libraries subject to subsection (f)(1).

13 (3) Parks and recreational facilities subject to
14 subsection (f)(1).

15 (4) Water and sewer infrastructure subject to subsection
16 (f)(1).

17 (5) Public safety.

18 (6) Agricultural land preservation.

19 (e) Use of fund for single-family and multifamily
20 residential units by school districts.--The revenues from the
21 fee imposed on single-family residential units or multifamily
22 residential units may only be used for primary or secondary
23 education capital expenditures subject to subsection (f)(2).

24 (f) Additional limitations.--

25 (1) The revenues from the fee imposed on single-family
26 residential units and multifamily residential units and that
27 are used for public libraries, water and sewer infrastructure
28 and parks and recreation may only be used for the capital
29 costs of public works, improvements and facilities.

30 (2) The revenues from the fee imposed on single-family

1 residential units and multifamily residential units used for
2 primary or secondary education capital expenditures may only
3 be used for the capital costs that primarily provide
4 additional capacity required to accommodate new construction
5 or development.

6 (g) No reversion of moneys.--At the end of a fiscal year,
7 any unspent or unencumbered balance in the fund shall remain in
8 the fund available for use in future fiscal years for purposes
9 specified in this section and shall not revert to the general
10 fund of the municipality or the school district.

11 Section 512-B. Appeals.

12 (a) Right of action.--Any person required to pay the fee
13 shall have the right to contest the assumptions, the development
14 and implementation of the building excise fee program, the
15 imposition of the fee, the refund of the fee and all other
16 matters relating to the fee, including the constitutionality or
17 validity of the fee ordinance by filing an appeal with the court
18 of common pleas.

19 (b) The court may:

20 (1) appoint a master to hear testimony on the issues and
21 return the record and a transcript of the testimony, together
22 with a report and recommendations; or

23 (2) appoint a master to hold a nonrecord hearing and to
24 make recommendations and return the same to the court, in
25 which case either party may demand a hearing de novo before
26 the court.

27 (c) Costs.--Any cost incurred by parties in such an appeal
28 shall be the separate responsibility of the parties.

29 Section 513-B. Enforcement.

30 (a) Offense.--

1 (1) It is unlawful for any person or entity to enlarge,
2 alter or change any use of property or to erect, construct,
3 enlarge, alter, repair, move, improve, make, put together or
4 convert any building in a municipality or school district, or
5 attempt to do so, or cause the same to be done, without first
6 paying any fee imposed by an ordinance or resolution adopted
7 under this article.

8 (2) A person or entity who violates this subsection
9 commits a misdemeanor of the third degree and, upon
10 conviction thereof, shall be fined up to \$500, or imprisoned
11 for up to 30 days, or both. Each day that the violation
12 continues shall be deemed a separate offense.

13 (b) Action to enforce.--In the event the fee is not paid as
14 required, the municipality or school district may institute an
15 action to recover the fee and enjoin the use of the property
16 until the fee is paid. The person who fails to pay shall be
17 ordered to pay the costs of such suit, including reasonable
18 attorney fees.

19 (c) Lien and enforcement.--If not paid as required by an
20 ordinance or resolution, the fee shall constitute a lien against
21 the property being developed and shall be levied, collected and
22 enforced in the same manner as are other liens of the
23 municipality or school district and shall have the same priority
24 and bear the same interest and penalties as such liens.

25 Section 514-B. Annual reports.

26 (a) Reports by municipalities and school districts.--

27 (1) On or before April 30 of each year each municipality
28 and on or before September of each year, each school district
29 that retains revenues under this subarticle shall report
30 annually to the appropriate county planning agency.

1 context clearly indicates otherwise:

2 "Essential public facilities." Public infrastructure
3 services, fire protection services, police protection services,
4 emergency medical services or any other service required to
5 protect the health and safety of the residents of a
6 municipality.

7 Section 522-B. Development moratorium authorized.

8 The governing body of a municipality may place a moratorium
9 of limited duration on new development by enacting, pursuant to
10 this subarticle, an ordinance to suspend the acceptance of
11 applications for development in order to permit the completion
12 of adequate public infrastructure to support the development.

13 Section 523-B. Findings of need.

14 (a) General rule.--Prior to adopting an ordinance under
15 section 522-B, the governing body, taking into consideration the
16 existing and future needs of the municipality, shall make
17 written findings, based upon reasonably available information,
18 that the enactment moratorium on new development:

19 (1) Will protect the health, safety or environment of
20 the people of the municipality and otherwise promote the
21 purposes of this article.

22 (2) Is necessary for any of the following reasons:

23 (i) to prevent the shortage or overburdening of
24 essential public facilities that would otherwise occur
25 during the effective period of the moratorium or that is
26 reasonably foreseeable as a result of any proposed or
27 anticipated development; or

28 (ii) to prevent serious public harm from
29 residential, commercial or industrial development in the
30 municipality because of the absence or inadequacy of

1 public infrastructure to support new development.

2 (b) Limitation.--The governing body shall include with its
3 written findings of need an additional finding that the term of
4 the moratorium, as evidenced by a proposed schedule for
5 achieving its objectives, will be sufficiently limited to ensure
6 that the supply of affected housing types and commercial and
7 industrial facilities within the municipality are not
8 unreasonably restricted.

9 (c) Public notice and hearing.--Before making the findings
10 required by this section, the governing body, pursuant to public
11 notice, shall hold a public hearing on the question of whether a
12 temporary development moratorium is needed for the findings
13 identified in subsection (a).

14 (d) Time.--Findings under this section shall be made by the
15 governing body no later than 15 days after the public hearing
16 held in accordance with subsection (c).

17 Section 524-B. Enactment.

18 (a) Hearing.--After making the written findings required by
19 section 523-B and before voting on the enactment of an ordinance
20 authorized in section 522-B, the governing body shall hold a
21 public hearing on the enactment of a temporary moratorium
22 ordinance, pursuant to public notice.

23 (b) Additional notice requirements.--In addition to the
24 required contents of a public notice as defined in section
25 107(a), the notice required under this section shall contain the
26 following:

27 (1) A statement that the written findings required under
28 section 523-B have been made and that they are available at
29 the municipal offices during regular business hours for
30 inspection by any citizen.

1 (2) A statement, if applicable, that the governing body
2 of the municipality has elected to impose a preordinance
3 temporary moratorium on new development by suspending the
4 acceptance of applications for development in accordance with
5 subsection (e) and the date on which the temporary moratorium
6 shall begin.

7 (c) Time.--The vote on the enactment by the governing body
8 shall be within 60 days after the first publication required for
9 public notice in accordance with this section.

10 (d) County planning agency.--Within 30 days after enactment,
11 a copy of the ordinance shall be forwarded to the county
12 planning agency or, in a county where no planning agency exists,
13 to the governing body of the county in which the municipality is
14 located.

15 (e) Preordinance temporary moratorium.--

16 (1) At least ten days after the first publication
17 required for public notice of the proposed ordinance, a
18 municipality may impose a preordinance temporary moratorium
19 by suspending the acceptance of applications for development.

20 (2) A suspension under this subsection may not exceed 50
21 days. A suspension under this subsection shall be in addition
22 to any suspension authorized by section 525-B(a) or (b).

23 Section 525-B. Term.

24 (a) Authorization.--An ordinance adopted under the authority
25 of section 522-B may authorize the temporary suspension of the
26 acceptance of applications for development for a period not to
27 exceed two years, except as provided in subsection (b) and
28 section 524-B(e).

29 (b) Extension.--A development moratorium adopted under the
30 authority of section 522-B may be extended, by ordinance, for up

1 to an additional one-year period if the following conditions are
2 met:

3 (1) The governing body finds that the findings made
4 pursuant to section 523-B still apply and that reasonable
5 progress is being made toward providing adequate public
6 infrastructure.

7 (2) Before making the findings required by this
8 subsection, the governing body holds a public hearing on the
9 enactment of an ordinance to extend the moratorium.

10 Section 526-B. Waiver.

11 (a) Application.--A landowner or developer may apply for a
12 waiver from a moratorium imposed under this article.

13 (b) Grant of application.--

14 (1) A waiver shall be granted if the landowner or
15 developer presents evidence from which the governing body,
16 after holding a hearing pursuant to subsection (d), concludes
17 that:

18 (i) Special or unique circumstances exist so that
19 application of the moratorium to the development in
20 question would create an unnecessary hardship on the
21 landowner or developer.

22 (ii) Granting the waiver would not significantly
23 draw upon public resources and the development could
24 function as intended without full public infrastructure.

25 (2) In granting a waiver in accordance with this
26 section, the governing body may set conditions on any
27 approval that may be granted, including limiting the waiver
28 so that the relief granted is the minimum necessary to
29 alleviate the hardship.

30 (c) Requirements.--A waiver application shall be in writing

1 and submitted to the governing body.

2 (d) Hearing.--The governing body shall hold a hearing on the
3 application for a waiver within 15 days from the date of the
4 applicant's request and shall make a determination on the waiver
5 application within 30 days after receiving the written request.

6 (e) Notice requirements.--In lieu of any other public notice
7 requirements contained in this act or any other law, the
8 governing body shall advertise a hearing required pursuant to
9 subsection (d) at least seven days prior to the date of the
10 hearing by placing notice in at least one newspaper of general
11 circulation in the area in which the development would occur.

12 Section 7. This act shall take effect in 60 days.