
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1412 Session of
2008

INTRODUCED BY PIPPY, A. WILLIAMS, PUNT, PILEGGI, O'PAKE, HUGHES,
RAFFERTY, KITCHEN, GORDNER, ORIE, COSTA, D. WHITE, ERICKSON
AND ROBBINS, MAY 14, 2008

REFERRED TO FINANCE, MAY 14, 2008

AN ACT

1 Amending the act of October 6, 1998 (P.L.705, No.92), entitled,
2 as amended, "An act providing for the creation of keystone
3 opportunity zones and keystone opportunity expansion zones to
4 foster economic opportunities in this Commonwealth, to
5 facilitate economic development, stimulate industrial,
6 commercial and residential improvements and prevent physical
7 and infrastructure deterioration of geographic areas within
8 this Commonwealth; authorizing expenditures; providing tax
9 exemptions, tax deductions, tax abatements and tax credits;
10 creating additional obligations of the Commonwealth and local
11 governmental units; and prescribing powers and duties of
12 certain State and local departments, agencies and officials,"
13 defining "unoccupied parcel"; providing for extensions for
14 unoccupied parcels, for additional keystone opportunity
15 expansion zones and for substitution of parcels outside a
16 subzone; and further providing for sales and use tax and for
17 corporate net income tax.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 Section 1. Section 103 of the act of October 6, 1998
21 (P.L.705, No.92), known as the Keystone Opportunity Zone,
22 Keystone Opportunity Expansion Zone and Keystone Opportunity
23 Improvement Zone Act, is amended by adding a definition to read:

24 Section 103. Definitions.

25 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Unoccupied parcel." A parcel with no qualified business
5 located thereon that has received certification under section
6 307.

7 Section 2. The act is amended by adding sections to read:
8 Section 301.3. Extension for unoccupied parcels.

9 (a) Extension.--The department may approve the extension of
10 all tax exemptions, deductions, abatements or credits authorized
11 under this part for any unoccupied parcel in a keystone
12 opportunity subzone, keystone opportunity expansion zone or
13 keystone opportunity improvement zone that is unoccupied on the
14 effective date of this section for a period of seven years from
15 the expiration date of the zone. The extension may not be
16 extended to a parcel that is certified on the basis of being
17 underutilized.

18 (b) Real estate tax abatement.--The owner of an unoccupied
19 parcel in a keystone opportunity zone, keystone opportunity
20 expansion zone or keystone opportunity improvement zone that has
21 expired but that receives an extension of tax abatement
22 eligibility following the original expiration date of the
23 keystone opportunity zone, keystone opportunity expansion zone
24 or keystone opportunity improvement zone under subsection (a)
25 shall not receive an abatement of real property tax until the
26 parcel becomes occupied or developed.

27 (c) Application.--In order to extend the tax benefits for
28 unoccupied parcels under subsection (a), the department must
29 receive an application from a political subdivision or its
30 designee no later than July 31, 2009. The application must

1 contain the information required under section 302(a)(1), (2),
2 (3), (5) and (6). The application must include all ordinances,
3 resolutions or other required action adopted by all political
4 subdivisions in which the unoccupied parcel is located adopting
5 the extension of all tax exemptions, deductions, abatements and
6 credits authorized under Chapter 7. The department, in
7 consultation with the Department of Revenue, shall review the
8 application and, if approved, issue a certification of all tax
9 exemptions, deductions, abatements or credits under this part
10 for the unoccupied parcel within three months of receipt of the
11 application. The certification shall be effective on the day
12 following the expiration date of the existing subzone.

13 (d) Applications for certain zones.--For a keystone
14 opportunity zone that expires December 31, 2008, an application
15 may be submitted to the department to temporarily delay the
16 expiration of the exemptions, deductions, abatements and credits
17 for the zone until June 30, 2009. The application must be
18 submitted by November 30, 2008, and include all ordinances,
19 resolutions or other required action from all affected political
20 subdivisions approving the requested delay in the expiration of
21 the keystone opportunity zone. If the expiration of a keystone
22 opportunity zone is delayed under this subsection, a political
23 subdivision or its designee may apply for an extension under
24 subsection (a). If an extension is granted under subsection (a),
25 the extension shall be deemed to be effective January 1, 2009.

26 (e) Payments in lieu of taxes.--A business may not provide
27 any payment in lieu of taxes or other payment, gift,
28 reimbursement, fee or other remuneration to a political
29 subdivision in exchange for the approval of the extension of a
30 subzone under subsection (c) which is not otherwise required by

1 law.

2 (f) Expiration.--All extensions of an unoccupied parcel
3 certified under this section shall expire no later than seven
4 years following the effective date of certification.

5 Section 301.4. Additional keystone opportunity expansion zones.

6 (a) Establishment.--

7 (1) In addition to any designations under section 301.1,
8 the department may, by December 31, 2009, designate up to
9 seven additional keystone opportunity expansion zones in
10 accordance with this section. Each additional keystone
11 opportunity expansion zone shall:

12 (i) Not be less than ten acres in size, unless
13 contiguous to an existing zone.

14 (ii) Not exceed, in the aggregate, a total of 350
15 acres.

16 (iii) Be comprised of parcels that meet any of the
17 following criteria:

18 (A) Are deteriorated, underutilized or
19 unoccupied on the effective date of this clause.

20 (B) Are occupied by a business that:

21 (I) Creates or retains at least 1,400 full-
22 time jobs in this Commonwealth within three years
23 of the designation of the keystone opportunity
24 expansion zone; and

25 (II) Makes a capital investment of at least
26 \$750,000,000 in the additional keystone
27 opportunity enhancement zone within three years
28 of the designation of the keystone opportunity
29 expansion zone.

30 (2) The department shall immediately notify political

1 subdivisions located within the area designated.

2 (b) Authorization.--Persons and businesses within an
3 additional keystone opportunity expansion zone authorized under
4 subsection (a) shall be entitled to all tax exemptions,
5 deductions, abatements or credits set forth under this part for
6 a period of ten years beginning January 1, 2010 and ending on
7 December 31, 2020.

8 (c) Application.--In order to receive a designation under
9 subsection (a), the department must receive an application from
10 a political subdivision or its designee no later than May 1,
11 2009. The application must contain the information required
12 under section 302(a)(1), (2), (3), (5) and (6). The application
13 must include all ordinances, resolutions or other required
14 action adopted by all political subdivisions in which the
15 keystone opportunity expansion zone is located adopting the
16 extension of all tax exemptions, deductions, abatements and
17 credits authorized under Chapter 7. The department, in
18 consultation with the Department of Revenue, shall review the
19 application and, if approved, issue a certification of all tax
20 exemptions, deductions, abatements or credits under this part
21 for the additional keystone opportunity expansion zone within
22 three months of receipt of the application. The department shall
23 act on an application under this subsection by June 30, 2009.

24 (d) Payments in lieu of taxes.--A business may not provide
25 any payment in lieu of taxes or other payment, gift,
26 reimbursement, fee or other remuneration to a political
27 subdivision in exchange for the approval of the extension of a
28 subzone under subsection (c) which is not otherwise required by
29 law.

30 Section 301.5. Substitution of parcels outside a subzone.

1 (a) Approval.--If a portion of an existing subzone is
2 affected by a governmental prohibition of an environmental
3 nature which has a substantial adverse effect on development,
4 the department may approve a substitution of other parcels for
5 those affected acres in the existing subzone, creating a new
6 subzone if the new subzone is substantially similar in acreage
7 size and is within five miles and in the same county as the
8 original subzone.

9 (b) Application and approval.--Applications to substitute
10 parcels under this section shall be made to the department no
11 later than May 31, 2009. Applications under this section shall
12 be made to the department in accordance with section 302(a)(1),
13 (2), (3), (5) and (6). The department shall certify the
14 substitutions by June 30, 2009.

15 Section 3. Section 511 of the act, amended December 9, 2002
16 (P.L.1727, No.217), is amended to read:

17 Section 511. Sales and use tax.

18 (a) Exemption.--Sales at retail of services or tangible
19 personal property, other than motor vehicles, to a qualified
20 business or a construction contractor pursuant to a construction
21 contract with a qualified business, for the exclusive use,
22 consumption and utilization of the tangible personal property or
23 service by the qualified business or the construction contractor
24 at [its] the qualified business's facility located within a
25 subzone, improvement subzone or expansion subzone are exempt
26 from the sales and use tax imposed under Article II of the Tax
27 Reform Code of 1971. No person shall be allowed an exemption for
28 sales conducted prior to designation of the real property as
29 part of a subzone or expansion subzone.

30 [(b) Construction contracts.--For any construction contract

1 performed in a subzone, improvement subzone or expansion
2 subzone, the exemption provided in subsection (a) shall only
3 apply to the sale at retail or use of building machinery and
4 equipment to a qualified business, or to a construction
5 contractor pursuant to a construction contract with a qualified
6 business, for the exclusive use, consumption and utilization by
7 the qualified business at its facility in a subzone, improvement
8 subzone or expansion subzone. For the purposes of the subzone,
9 improvement subzone or expansion subzone exemption, building
10 machinery and equipment shall include distribution equipment
11 purchased for the exclusive use, consumption and utilization in
12 a subzone, improvement subzone or expansion subzone facility.]

13 Section 4. Section 515(d) introductory paragraph and (3) of
14 the act, amended December 23, 2003 (P.L.360, No.51), are amended
15 to read:

16 Section 515. Corporate net income tax.

17 * * *

18 (d) Income apportionment.--The taxable income of a
19 corporation that is a qualified business shall be apportioned to
20 the subzone, improvement subzone or expansion subzone by
21 multiplying the Pennsylvania taxable income by a fraction, the
22 numerator of which is the property factor plus the payroll
23 factor [plus the sales factor] and the denominator of which is
24 [three] two, in accordance with the following:

25 * * *

26 [(3) The sales factor is a fraction, the numerator of
27 which is the total sales of the taxpayer in the subzone,
28 improvement subzone or expansion subzone during the tax
29 period and the denominator of which is the total sales of the
30 taxpayer in this Commonwealth during the tax period.

1 (i) Sales of tangible personal property are in the
2 subzone, improvement subzone or expansion subzone if the
3 property is delivered or shipped to a purchaser that
4 takes possession within the subzone, improvement subzone
5 or expansion subzone regardless of the F.O.B. point or
6 other conditions of the sale.

7 (ii) Sales other than sales of tangible personal
8 property are in the subzone, improvement subzone or
9 expansion subzone if:

10 (A) the income-producing activity is performed
11 in the subzone, improvement subzone or expansion
12 subzone; or

13 (B) the income-producing activity is performed
14 both within and without the subzone, improvement
15 subzone or expansion subzone and a greater proportion
16 of the income-producing activity is performed in the
17 subzone, improvement subzone or expansion subzone
18 than in any other location, based on costs of
19 performance.]

20 * * *

21 Section 5. The amendment of section 515 of the act shall
22 apply to taxable years beginning after December 31, 2008.

23 Section 6. This act shall take effect in 60 days.