

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2175 Session of 2012

INTRODUCED BY TURZAI, ADOLPH, SAYLOR, MAJOR, STEVENSON, REED, VEREB, AUMENT, BAKER, BARRAR, BEAR, BENNINGHOFF, BLOOM, BOBACK, BROOKS, R. BROWN, CLYMER, COX, CREIGHTON, CUTLER, DAY, DELOZIER, DENLINGER, DUNBAR, ELLIS, EMRICK, EVANKOVICH, J. EVANS, EVERETT, FARRY, FLECK, GABLER, GEIST, GILLEN, GILLESPIE, GINGRICH, GRELL, GROVE, HACKETT, HAHN, HARHART, HARRIS, HELM, HENNESSEY, HESS, HUTCHINSON, KAMPF, KAUFFMAN, F. KELLER, M. K. KELLER, KILLION, KNOWLES, KRIEGER, LAWRENCE, MALONEY, MARSHALL, MARSICO, MASSER, METCALFE, MICOZZIE, MILLARD, MILLER, MILNE, MOUL, MURT, MUSTIO, OBERLANDER, O'NEILL, PEIFER, PERRY, PETRI, PICKETT, PYLE, QUIGLEY, QUINN, RAPP, REESE, ROAE, ROCK, ROSS, SACCONI, SCAVELLO, CULVER, SCHRODER, SIMMONS, SONNEY, STEPHENS, STERN, SWANGER, TALLMAN, TAYLOR, TOBASH, TOEPEL, TOOIL, VULAKOVICH AND WATSON, FEBRUARY 7, 2012

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 7, 2012

AN ACT

1 Amending the act of February 9, 1999 (P.L.1, No.1), entitled "An  
 2 act providing for borrowing for capital facilities;  
 3 conferring powers and duties on various administrative  
 4 agencies and officers; making appropriations; and making  
 5 repeals," in capital facilities, further providing for  
 6 definitions, for legislative procedures and for  
 7 appropriations and limitations on projects; providing for  
 8 review of proposals; and further providing for funding and  
 9 administration of projects.

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

12 Section 1. The definitions of "capital project" and  
 13 "redevelopment assistance capital project" in section 302 of the  
 14 act of February 9, 1999 (P.L.1, No.1), known as the Capital  
 15 Facilities Debt Enabling Act, amended July 4, 2004 (P.L.516,

1 No.67) and December 22, 2005 (P.L.454, No.87), are amended and  
2 the section is amended by adding definitions to read:

3 Section 302. Definitions.

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

7 \* \* \*

8 "Applicant." A person that is seeking funding for a  
9 redevelopment assistance capital project that has been listed in  
10 a capital project itemization bill and that is one of the  
11 following:

12 (1) A redevelopment authority.

13 (2) An industrial development authority.

14 (3) A general purpose unit of local government.

15 (4) A local development district that has an agreement  
16 with a general purpose unit of local government under which  
17 the unit assumes ultimate responsibility for debt incurred to  
18 obtain the non-State financial participation.

19 (5) A public authority established pursuant to the laws  
20 of this Commonwealth.

21 (6) An industrial development agency:

22 (i) which has been certified as an industrial  
23 development agency by the Pennsylvania Industrial  
24 Development Authority Board under the act of May 17, 1956  
25 (1955 P.L.1609, No.537), known as the Pennsylvania  
26 Industrial Development Authority Act; and

27 (ii) which is itself or which is acting through a  
28 wholly owned subsidiary that is exempt from Federal  
29 taxation under section 501(c)(3) of the Internal Revenue  
30 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

1 "Capital project." A community college, flood control,  
2 highway, public improvement, redevelopment assistance capital or  
3 transportation assistance project which is financed by debt or  
4 by other funds and which meets all of the following:

5 (1) Is an undertaking to construct, repair, renovate,  
6 improve, equip, furnish or acquire any:

7 (i) building, structure, facility, infrastructure or  
8 physical public betterment or improvement;

9 (ii) land or rights in land; or

10 (iii) furnishings, machinery, apparatus or equipment  
11 for a building, structure, facility or physical public  
12 betterment or improvement.

13 (2) Is designated in a [capital budget] capital project  
14 itemization bill as a capital project.

15 (3) Has an estimated useful life in excess of five  
16 years.

17 (4) Has an estimated financial cost in excess of  
18 \$100,000. This paragraph does not apply to original equipment  
19 or furnishings for previously authorized public improvement  
20 projects.

21 [Capital projects are categorized as flood control projects,  
22 highway projects, public improvement projects, redevelopment  
23 assistance capital projects and transportation assistance  
24 projects.]

25 \* \* \*

26 "Legislative session." A two-year period beginning December  
27 1 of an even-numbered year and ending November 30 of an odd-  
28 numbered year.

29 \* \* \*

30 "Office." The Governor's Office of the Budget.

1 \* \* \*

2 "Redevelopment assistance capital project." The design and  
3 construction of [facilities] a project which [meet] meets all of  
4 the following:

5 (1) [Are facilities, other than] Is a project, including  
6 infrastructure associated with the project. A project does  
7 not include highways, bridges, waste disposal facilities,  
8 sewage facilities or water facilities. This paragraph  
9 includes:

10 (i) [Water] Storm water, water or sewer  
11 infrastructure, or tunnels, bridges or roads, when  
12 [included as part of a business or industrial park  
13 facility] associated with a project that is part of an  
14 economic development project.

15 (ii) Hospital facilities and capital improvements  
16 for hospital facilities.

17 (2) [Are economic development projects which] Is a  
18 project which will generate substantial increases in or  
19 maintain current levels of employment, tax revenues or other  
20 measures of economic activity. This paragraph includes  
21 projects with cultural, historical or civic significance.

22 (3) [Are facilities which have] Is a project that has a  
23 regional or multijurisdictional impact.

24 (4) [Are] Is eligible for tax-exempt bond funding under  
25 existing Federal law and regulations.

26 (5) [Have a] Has at least a 50% non-State financial  
27 participation documented at the time of application,  
28 including a portion of any funds reserved for future physical  
29 maintenance and operation of the [facilities] project:

30 (i) at least half of which is secured funding;

1           (ii) toward which the only noncash non-State  
2 financial participation permitted is land or fixed assets  
3 which have a substantial useful life and are directly  
4 related to the project;

5           (iii) toward which State funds from other programs  
6 may not be used; and

7           (iv) toward which funds from Federal sources may be  
8 used.

9           (6) [Have] Has a total project cost of at least  
10 \$1,000,000.

11           (7) [Applicants shall be one of the following:

12           (i) A redevelopment authority.

13           (ii) An industrial development authority.

14           (iii) A general purpose unit of local government.

15           (iv) A local development district which has an  
16 agreement with a general purpose unit of local government  
17 under which the unit assumes ultimate responsibility for  
18 debt incurred to obtain the 50% non-State participation  
19 required by paragraph (5).

20           (v) Any public authority established pursuant to the  
21 laws of this Commonwealth.

22           (vi) An industrial development agency which has been  
23 certified as an industrial development agency by the  
24 Pennsylvania Industrial Development Authority Board  
25 pursuant to the act of May 17, 1956 (1955 P.L.1609,  
26 No.537), known as the Pennsylvania Industrial Development  
27 Authority Act, and which is itself or which is acting  
28 through a wholly owned subsidiary which is exempt from  
29 Federal taxation under section 501(c)(3) of the Internal  
30 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et

1 seq.).

2 The term also includes a fire truck and firefighting equipment  
3 to the extent that the request for assistance does not exceed  
4 \$50,000.] (Reserved).

5 \* \* \*

6 "Secretary." The Secretary of the Budget.

7 \* \* \*

8 Section 2. Section 303 of the act, amended December 22, 2005  
9 (P.L.454, No.87), is amended to read:

10 Section 303. Procedures for capital [budget] project  
11 itemization bill and debt-authorizing legislation.

12 (a) Legislative process.--A capital budget prepared in  
13 accordance with this chapter shall be submitted for each fiscal  
14 year by the Governor to the General Assembly and shall be  
15 considered in the form of a bill as provided in Article III of  
16 the Constitution of Pennsylvania.

17 (b) Itemization bill.--

18 [(1) Except as set forth in paragraph (2), the capital  
19 budget bill must specifically itemize, by brief identifying  
20 description and estimated financial cost, the capital  
21 projects to be financed from the proceeds of obligations of  
22 the Commonwealth.

23 (2) Paragraph (1) does not apply if the itemization is:

24 (i) contained in or approved by prior legislation  
25 referred to in the capital budget bill; or

26 (ii) included in one or more supplemental capital  
27 budget bills.

28 (3) Projects must be listed in separate categories as  
29 well as according to the fund to be charged with the  
30 repayment of the obligations to be incurred.

1           (4) The capital budget bill must state the maximum  
2 amount of such obligations which may be incurred in the  
3 ensuing fiscal year to provide funds for and towards the  
4 financial costs of each category of capital projects, which  
5 shall be by the issue of general obligations of the  
6 Commonwealth.]

7           (1) At least once each legislative session, the Governor  
8 shall submit a capital project itemization bill to the  
9 General Assembly specifically itemizing the capital projects  
10 to be financed from the proceeds of obligations of the  
11 Commonwealth. No redevelopment assistance capital project may  
12 receive funds unless the project is itemized in a capital  
13 project itemization bill enacted within ten years of the date  
14 the project is approved under section 318 or the project has  
15 been approved by the secretary on or before December 31,  
16 2011. Each capital project must be listed under its category  
17 and include all of the following:

18                 (i) A specific description of the capital project,  
19 including the municipality in which the capital project  
20 is located.

21                 (ii) Estimated financial cost of the capital  
22 project.

23                 (iii) The fund to be charged with the repayment of  
24 the obligation to be incurred.

25           (2) Beginning January 1, 2012, a redevelopment  
26 assistance capital project which has been itemized but has  
27 not been approved by the secretary on or before December 31,  
28 2011, may not receive funding unless the redevelopment  
29 assistance capital project is listed in a capital project  
30 itemization bill enacted after January 1, 2012.

1 [(c) Timing.--Each year the Governor shall submit a capital  
2 budget bill for the ensuing fiscal year.]

3 (d) [Additional bills] Debt authorization bill.--At the time  
4 the Governor submits the [capital budget or a supplement]  
5 General Appropriation Bill for a fiscal year, the Governor  
6 shall, to the extent the debt to be incurred is not within the  
7 limits of legislation then in force authorizing the incurring of  
8 debt, submit [additional bills for each category of capital  
9 projects,] a capital budget bill authorizing the [incurring of  
10 debt] maximum amount of general obligation debt to be incurred  
11 in the ensuing fiscal year to provide funds for and towards the  
12 payment of the financial costs of capital projects in [such]  
13 each category of capital projects which have been specifically  
14 itemized in a [capital budget for the same or any prior year]  
15 capital project itemization bill.

16 (e) Categories.--Each [debt-authorizing bill] capital budget  
17 bill must do all of the following:

18 (1) State the category of capital projects to be  
19 financed by the debt so authorized but need not enumerate the  
20 capital projects to be financed.

21 (2) Authorize the incurring of debt in not less than the  
22 amount of the financial cost of all capital projects in such  
23 category not covered by a previous debt authorization,  
24 including any overall allowance for contingencies.

25 (3) State the estimated useful lives of the capital  
26 projects to be financed in such detail as may be requisite if  
27 capital projects of varying useful lives are to be combined  
28 for financing purposes.

29 (4) State the maximum term of the debt to be incurred.

30 Section 3. Section 317 of the act, amended July 7, 2010



1 (P.L.335, No.48), is amended to read:

2 Section 317. Appropriation for and limitation on redevelopment  
3 assistance capital projects.

4 (a) Appropriation.--The amount necessary to pay principal of  
5 and interest on all obligations issued to provide funds for  
6 redevelopment assistance capital projects shall be appropriated  
7 from the General Fund and shall be transferred to the Capital  
8 Debt Fund upon authorization by the Governor.

9 (b) Limitation.--The maximum amount of redevelopment  
10 assistance capital projects undertaken by the Commonwealth for  
11 which obligations are outstanding shall not exceed, in  
12 aggregate, [~~\$4,050,000,000.~~] \$3,500,000,000. Beginning July 1,  
13 2012, and each July 1 thereafter until July 1, 2020, the sum of  
14 the maximum amount of outstanding obligations for redevelopment  
15 assistance capital projects shall be decreased by \$50,000,000.  
16 Beginning July 1, 2020, and each July 1 thereafter until the sum  
17 of outstanding obligations for redevelopment assistance capital  
18 does not exceed \$1,500,000,000, the sum of the maximum amount of  
19 outstanding obligations for redevelopment assistance capital  
20 projects shall be decreased by \$150,000,000.

21 (c) Housing units.--An amount not to exceed \$25,000,000 of  
22 the amount under subsection (b) may be used for the construction  
23 of housing units.

24 Section 4. Section 318 of the act, amended July 4, 2004  
25 (P.L.516, No.67), is amended to read:

26 Section 318. [Funding and administration] Administration of  
27 redevelopment assistance capital projects.

28 (a) [Officers.--The Secretary of the Budget shall review and  
29 shall approve or disapprove applications for redevelopment  
30 assistance capital projects.] (Reserved).

1 (a.1) Application.--An applicant shall submit an application  
2 to the office consistent with the timeline established by the  
3 office requesting a grant for a redevelopment assistance capital  
4 project. The proposal must be on the form required by the office  
5 and must include or demonstrate all of the following:

6 (1) The applicant's name and address.

7 (2) The location of the project.

8 (3) An estimate of the cost of the project, prepared by  
9 an engineer or other qualified professional.

10 (4) A statement of the amount of the project grant  
11 sought, including a statement as to the financial necessity  
12 for the project grant.

13 (5) A statement that the applicant held at least one  
14 public informational meeting regarding the redevelopment  
15 assistance capital project. The meeting must be held within a  
16 ten-mile radius of the project site and proper notice must be  
17 given in accordance with 65 Pa.C.S. Ch. 7 (relating to open  
18 meetings). Expenses for the public informational meeting  
19 shall be paid by the applicant.

20 (6) Any other information required by the office.

21 (a.2) Review and approval.--The office shall review the  
22 application to determine if all the requirements have been met.  
23 Upon being satisfied that all requirements have been met, the  
24 secretary may approve the application, and, if approved, the  
25 office shall notify:

26 (1) The applicant.

27 (2) The President pro tempore of the Senate.

28 (3) The Majority Leader of the Senate.

29 (4) The Minority Leader of the Senate.

30 (5) The chairman and minority chairman of the

1 Appropriations Committee of the Senate.

2 (6) The Speaker of the House of Representatives.

3 (7) The Majority Leader of the House of Representatives.

4 (8) The Minority Leader of the House of Representatives.

5 (9) The chairman and minority chairman of the  
6 Appropriations Committee of the House of Representatives.

7 (10) The State Senator and the State Representative of  
8 the district where the redevelopment assistance capital  
9 project is located.

10 (a.3) Acceptance and grant agreement.--Within 30 days of  
11 receiving notification of approval under subsection (a.2), an  
12 applicant shall notify the office if the applicant accepts the  
13 grant. If the applicant notifies the office that it intends to  
14 accept the grant, the office shall forward to the applicant a  
15 grant agreement to be executed by the applicant. The grant  
16 agreement and any attachments thereto shall include the  
17 following:

18 (1) The name and address of who will administer the  
19 grant.

20 (2) A statement and proof of local funding.

21 (3) An itemized statement of cost associated with the  
22 project.

23 (4) A contract obligating the applicant to use the grant  
24 for the project.

25 (5) A request for any other information the office may  
26 require.

27 (a.4) Execution.--The applicant shall return the information  
28 requested and the executed contract within the timelines  
29 established by the office. If the applicant fails to return the  
30 executed contract within the timelines established by the office

1 or 180 days of notification under subsection (a.2), whichever is  
2 less, no contract may be executed by the office for the grant.

3 (b) Time period.--State funding for approved redevelopment  
4 assistance capital projects shall be paid over not less than a  
5 36-month period unless the [Secretary of the Budget] secretary  
6 authorizes a shorter period.

7 (c) Costs.-- Land acquisition is a permissible State-funded  
8 expenditure if the acquisition cost is supported by an appraisal  
9 done by a certified appraiser.

10 (e) Verification.--Redevelopment assistance capital project  
11 cost estimates must be verified by the [Office of the Budget]  
12 office or its designated agent before final approval is given to  
13 a project application. Cost estimates include total project  
14 cost, projected use for State and non-State funds and a year-by-  
15 year schedule of costs for the entire project construction  
16 phase.

17 (f) Bids.-- Notwithstanding any other provision of law, the  
18 solicitation of a minimum of three written bids for all  
19 contracted construction work on redevelopment assistance capital  
20 projects shall be the sole requirement for the composition,  
21 solicitation, opening and award of bids on such projects.  
22 Notwithstanding the foregoing, the construction work shall be  
23 performed subject to the act of March 3, 1978 (P.L.6, No.3),  
24 known as the Steel Products Procurement Act.

25 (g) Review and audit.--Redevelopment assistance capital  
26 projects shall be reviewed at regular intervals by the [Office  
27 of the Budget] office or its designated agent during the funding  
28 phase to ensure financial and program compliance. A final  
29 closeout audit shall be performed by the [Office of the Budget]  
30 office or its designated agent for all projects.

1 (h) Fee.--To pay for administrative expenses related to  
2 redevelopment assistance capital projects funded by Commonwealth  
3 general obligation bonds, the [Office of the Budget] office may  
4 charge a fee against proceeds from bonds and notes which were  
5 sold to finance construction or acquisition costs of projects.

6 (i) Grant administration.--In the event any applicant does  
7 not administer the grant, the applicant shall enter into a  
8 cooperation agreement with the entity administering the grant,  
9 which agreement shall be subject to the approval of the [Office  
10 of the Budget] office.

11 (j) Moratorium.--No redevelopment assistance capital project  
12 may be approved in the period between the date of a general  
13 election at which a Governor is elected and the third Tuesday of  
14 January next following the election.

15 (k) Guidelines.--Within 60 days of the effective date of  
16 this subsection, the office shall establish guidelines  
17 concerning the administration of and approval process for  
18 redevelopment assistance capital projects. The guidelines shall,  
19 at a minimum, establish application timelines, application  
20 content and the review, evaluation and award criteria and  
21 process. In establishing the evaluating criteria, the office may  
22 give preference to an applicant with a project that has at least  
23 a 75% non-State financial participation. The guidelines must be  
24 posted on the Internet website of the office.

25 Section 5. The amendment of the definition of "redevelopment  
26 assistance capital project" in section 302 of the act shall  
27 apply to capital projects that have not been approved by the  
28 Secretary of the Budget on or before December 31, 2011.

29 Section 6. This act shall take effect immediately.