

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, WATSON AND METZGAR, FEBRUARY 7, 2012

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, FEBRUARY 13, 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

1 Facilities Debt Enabling Act, amended July 4, 2004 (P.L.516,
2 No.67) and December 22, 2005 (P.L.454, No.87), are amended and
3 the section is amended by adding definitions to read:

4 Section 302. Definitions.

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

8 * * *

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

13 (1) A redevelopment authority.

14 (2) An industrial development authority.

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

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

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

22 (6) An industrial development agency:

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

28 (ii) which is itself or which is acting through a
29 wholly owned subsidiary that is exempt from Federal
30 taxation under section 501(c)(3) of the Internal Revenue

1 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

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

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

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

10 (ii) land or rights in land; or

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

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

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

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

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

26 * * *

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

30 * * *

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

2 * * *

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

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

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

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

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

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

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

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

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

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

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

10 (6) [Have] Has a total project cost of at least
11 \$1,000,000.

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

13 (i) A redevelopment authority.

14 (ii) An industrial development authority.

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

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

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

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

1 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et
2 seq.).

3 The term also includes a fire truck and firefighting equipment
4 to the extent that the request for assistance does not exceed
5 \$50,000.] (Reserved).

6 * * *

7 "Secretary." The Secretary of the Budget.

8 * * *

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

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

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

18 (b) Itemization bill.--

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

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

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

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

29 (3) Projects must be listed in separate categories as
30 well as according to the fund to be charged with the

1 repayment of the obligations to be incurred.

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

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

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

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

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

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

1 itemization bill enacted after January 1, 2012.

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

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

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

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

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

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

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

1 Section 3. Section 317 of the act, amended July 7, 2010
2 (P.L.335, No.48), is amended to read:

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

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

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

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

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

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

29 (a) [Officers.--The Secretary of the Budget shall review and
30 shall approve or disapprove applications for redevelopment

1 assistance capital projects.] (Reserved).

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

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

8 (2) The location of the project.

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

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

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

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

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

27 (1) The applicant.

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

29 (3) The Majority Leader of the Senate.

30 (4) The Minority Leader of the Senate.

1 (5) The chairman and minority chairman of the
2 Appropriations Committee of the Senate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 office or its designated agent for all projects.

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

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

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

16 (J) MORATORIUM.--IF THE GOVERNOR-ELECT IS NOT CURRENTLY ←
17 HOLDING THE OFFICE OF GOVERNOR AS A RESULT OF A GENERAL ELECTION
18 AT WHICH A GOVERNOR IS ELECTED, NO REDEVELOPMENT ASSISTANCE
19 CAPITAL PROJECT MAY BE APPROVED IN THE PERIOD BETWEEN THE DATE
20 OF THE GENERAL ELECTION AT WHICH THE GOVERNOR-ELECT WAS ELECTED
21 AND THE THIRD TUESDAY OF JANUARY NEXT FOLLOWING THE ELECTION.

22 (k) Guidelines.--Within 60 days of the effective date of
23 this subsection, the office shall establish guidelines
24 concerning the administration of and approval process for
25 redevelopment assistance capital projects. The guidelines shall,
26 at a minimum, establish application timelines, application
27 content and the review, evaluation and award criteria and
28 process. In establishing the evaluating criteria, the office may
29 give preference to an applicant with a project that has at least
30 a 75% non-State financial participation. The guidelines must be

1 posted on the Internet website of the office.

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

6 Section 6. This act shall take effect immediately.