

## 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, TOOHIL, VULAKOVICH, WATSON, METZGAR, HICKERNELL AND CALTAGIRONE, FEBRUARY 7, 2012

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
MARCH 12, 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, for reports related  
7 to redevelopment assistance capital projects and for  
8 appropriations and limitations on projects; providing for  
9 review of proposals; and further providing for funding and  
10 administration of projects.

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

13 Section 1. The definitions of "capital project" and  
14 "redevelopment assistance capital project" in section 302 of the  
15 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 EVEN-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. Sections 303 and 313.1 of the act, amended or  
10 added December 22, 2005 (P.L.454, No.87), are 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 At least once each legislative session, the Governor shall  
9 submit a capital project itemization bill to the General  
10 Assembly specifically itemizing the capital projects to be  
11 financed from the proceeds of obligations of the Commonwealth.  
12 No redevelopment assistance capital project may receive funds  
13 unless the project was itemized in a capital budget project  
14 itemization bill, a capital budget bill or a capital project  
15 itemization bill enacted within ten years of the date the  
16 project is approved under section 318 or the project has been  
17 approved by the secretary on or before December 31, 2011. Each  
18 capital project must be listed under its category and include  
19 all of the following:

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

23 (2) Estimated financial cost of the capital project.

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

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

28 (d) [Additional bills] Debt authorization bill.--At the time  
29 the Governor submits the [capital budget or a supplement]  
30 General Appropriation Bill for a fiscal year, the Governor

1 shall, to the extent the debt to be incurred is not within the  
2 limits of legislation then in force authorizing the incurring of  
3 debt, submit [additional bills for each category of capital  
4 projects,] a capital budget bill authorizing the [incurring of  
5 debt] maximum amount of general obligation debt to be incurred  
6 in the ensuing fiscal year to provide funds for and towards the  
7 payment of the financial costs of capital projects in [such]  
8 each category of capital projects which have been specifically  
9 itemized in a [capital budget for the same or any prior year]  
10 capital project itemization bill.

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

13 (1) State the category of capital projects to be  
14 financed by the debt so authorized but need not enumerate the  
15 capital projects to be financed.

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

20 (3) State the estimated useful lives of the capital  
21 projects to be financed in such detail as may be requisite if  
22 capital projects of varying useful lives are to be combined  
23 for financing purposes.

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

25 Section 313.1. Reports related to redevelopment assistance  
26 capital projects.

27 The Secretary of the Budget shall, within ten days of the  
28 expiration of each quarter of each fiscal year, provide to the  
29 chairman and minority chairman of the Appropriations Committee  
30 of the Senate and the chairman and minority chairman of the



1 Appropriations Committee of the House of Representatives a  
2 report relating to redevelopment assistance capital projects  
3 which addresses at least all of the following materials:

4 (1) An itemized list of the redevelopment assistance  
5 capital projects approved [for release and construction] in  
6 the preceding quarter.

7 (2) An estimate of the amount of funds remaining under  
8 the cap provided in section 317(b).

9 (3) An estimate of the total amount of outstanding debt  
10 related to redevelopment assistance capital projects.

11 (4) An estimate of the amount of outstanding debt  
12 related to redevelopment assistance capital projects which  
13 will be paid [or refinanced] in the succeeding four quarters.

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

16 Section 317. Appropriation for and limitation on redevelopment  
17 assistance capital projects.

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

23 (b) Limitation.--The maximum amount of redevelopment  
24 assistance capital projects undertaken by the Commonwealth for  
25 which obligations are outstanding shall not exceed, in  
26 aggregate, [\$4,050,000,000.] \$3,500,000,000. Beginning July 1,  
27 2012, and each July 1 thereafter until July 1, 2020, the sum of  
28 the maximum amount of outstanding obligations for redevelopment  
29 assistance capital projects shall be decreased by \$50,000,000.  
30 Beginning July 1, 2020, and each July 1 thereafter until the sum

1 of outstanding obligations for redevelopment assistance capital  
2 projects does not exceed \$1,500,000,000, the sum of the maximum  
3 amount of outstanding obligations for redevelopment assistance  
4 capital projects shall be decreased by \$150,000,000.

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

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

10 Section 318. [Funding and administration] Administration of  
11 redevelopment assistance capital projects.

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

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

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

21 (2) The location of the project.

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

24 (4) A statement of the amount of the project grant  
25 sought, including a statement as to the financial necessity  
26 for the project grant.

27 (5) A statement that the applicant held at least one  
28 public informational meeting regarding the redevelopment  
29 assistance capital project. The meeting must be held within a  
30 ten-mile radius of the project site and proper notice must be

1 given in accordance with 65 Pa.C.S. Ch. 7 (relating to open  
2 meetings). Expenses for the public informational meeting  
3 shall be paid by the applicant.

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

5 (a.2) Review and approval.--The office shall review the  
6 application to determine if all the requirements have been met.  
7 Upon being satisfied that all requirements have been met, the  
8 secretary may approve the application, and, if approved, the  
9 office shall notify:

10 (1) The applicant.

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

12 (3) The Majority Leader of the Senate.

13 (4) The Minority Leader of the Senate.

14 (5) The chairman and minority chairman of the  
15 Appropriations Committee of the Senate.

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

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

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

19 (9) The chairman and minority chairman of the  
20 Appropriations Committee of the House of Representatives.

21 (10) The State Senator and the State Representative of  
22 the district where the redevelopment assistance capital  
23 project is located.

24 (a.3) Acceptance and grant agreement.--Within 30 days of  
25 receiving notification of approval under subsection (a.2), an  
26 applicant shall notify the office if the applicant accepts the  
27 grant. If the applicant notifies the office that it intends to  
28 accept the grant, the office shall forward to the applicant a  
29 grant agreement to be executed by the applicant. The grant  
30 agreement and any attachments thereto shall include the

1 following:

2 (1) The name and address of who will administer the  
3 grant.

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

5 (3) An itemized statement of cost associated with the  
6 project.

7 (4) A contract obligating the applicant to use the grant  
8 for the project.

9 (5) A request for any other information the office may  
10 require.

11 (a.4) Execution.--The applicant shall return the information  
12 requested and the executed contract within the timelines  
13 established by the office. If the applicant fails to return the  
14 executed contract within the timelines established by the office  
15 or 180 days of notification under subsection (a.2), whichever is  
16 less, no contract may be executed by the office for the grant.

17 (b) Time period.--State funding for approved redevelopment  
18 assistance capital projects shall be paid over not less than a  
19 36-month period unless the [Secretary of the Budget] secretary  
20 authorizes a shorter period.

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

24 (e) Verification.--Redevelopment assistance capital project  
25 cost estimates must be verified by the [Office of the Budget]  
26 office or its designated agent before final approval is given to  
27 a project application. Cost estimates include total project  
28 cost, projected use for State and non-State funds and a year-by-  
29 year schedule of costs for the entire project construction  
30 phase.

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

9 (g) Review and audit.--Redevelopment assistance capital  
10 projects shall be reviewed at regular intervals by the [Office  
11 of the Budget] office or its designated agent during the funding  
12 phase to ensure financial and program compliance. A final  
13 closeout audit shall be performed by the [Office of the Budget]  
14 office or its designated agent for all projects.

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

20 (i) Grant administration.--In the event any applicant does  
21 not administer the grant, the applicant shall enter into a  
22 cooperation agreement with the entity administering the grant,  
23 which agreement shall be subject to the approval of the [Office  
24 of the Budget] office.

25 (j) Moratorium.--If the Governor-elect is not currently  
26 holding the office of Governor as a result of a general election  
27 at which a Governor is elected, no redevelopment assistance  
28 capital project may be approved in the period between the date  
29 of the general election at which the Governor-elect was elected  
30 and the third Tuesday of January next following the election.

1     (k) Guidelines.--Within 60 days of the effective date of  
2 this subsection, the office shall establish guidelines  
3 concerning the administration of and approval process for  
4 redevelopment assistance capital projects. The guidelines shall,  
5 at a minimum, establish application timelines, application  
6 content and the review, evaluation and award criteria and  
7 process. In establishing the evaluating criteria, the office may  
8 give preference to an applicant with a project that has at least  
9 a 75% non-State financial participation. The guidelines must be  
10 posted on the Internet website of the office.

11     (l) Disclosure.--Upon a redevelopment assistance capital  
12 project being approved, the office shall post on its Internet  
13 website the date of approval of the project, the name of the  
14 applicant, a short description of the project, the location of  
15 the project, including the municipality in which it is located,  
16 and the amount of the project grant approved for the project.

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

21     Section 6. This act shall take effect immediately.