

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 399 Session of 2011

INTRODUCED BY BROWNE, ERICKSON, EARLL, ALLOWAY, MENSCH, FONTANA, STACK, BOSCOLA, YUDICHAK AND WOZNIAK, FEBRUARY 4, 2011

REFERRED TO FINANCE, FEBRUARY 4, 2011

AN ACT

1 Amending the act of July 11, 1990 (P.L.465, No.113), entitled
 2 "An act providing for the creation of tax increment
 3 districts; providing for additional powers and duties to be
 4 exercised by redevelopment authorities and by industrial and
 5 commercial development authorities; authorizing the creation
 6 and approval of project plans for tax increment financing;
 7 providing for the establishment of a tax increment base;
 8 allocating the payment of positive tax increments; providing
 9 for the financing of project costs; and providing for the
 10 issuance of tax increment bonds and notes," further defining
 11 "tax increment" and "tax increment base"; and further
 12 providing for determination of tax increment and tax
 13 increment base and for allocation of positive tax increments.

14 The General Assembly of the Commonwealth of Pennsylvania
 15 hereby enacts as follows:

16 Section 1. The definitions of "tax increment" and "tax
 17 increment base" in section 3 of the act of July 11, 1990 (P.L.
 18 465, No.113), known as the Tax Increment Financing Act, amended
 19 December 16, 1992 (P.L.1240, No.164), are amended to read:

20 Section 3. Definitions.

21 The following words and phrases when used in this act shall
 22 have the meanings given to them in this section unless the
 23 context clearly indicates otherwise:

1 * * *

2 "Tax increment." Generally, the incremental tax revenues,
3 determined with reference to the tax increment base, resulting
4 from the increase in property values or from the increase in
5 commercial activity as a result of a project. More specifically,
6 the term includes the following:

7 (1) The incremental tax revenues resulting from an
8 increase in the total market value of taxable real property
9 situated in a tax increment district and an increase in the
10 business use and occupancy of such taxable real property.
11 This paragraph applies only to ad valorem taxes on real
12 property and tax imposed by the governing body on the use and
13 occupancy of real property.

14 (2) The payment in lieu of taxes assigned to or agreed
15 to be paid by governmental entities or nonprofit
16 organizations with property situated or otherwise assignable
17 to a tax increment district. Whether all or only a portion of
18 this payment is to be considered part of the tax increment
19 shall be determined at the time the tax increment district is
20 created.

21 (3) The incremental tax revenues resulting from an
22 increase in total taxable sales and rentals of tangible
23 personal property and in the rendition of taxable services by
24 vendors located in a tax increment district. [This paragraph
25 applies only to a sales tax levied by a governing body.]

26 (4) The incremental tax revenues resulting from an
27 increase in total gross receipts or gross or net profits or
28 income realized by persons or entities from business
29 conducted in a tax increment district. This paragraph applies
30 only to those taxes levied under the authority of the act of

1 August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the
2 Sterling Act, the act of December 31, 1965 (P.L.1257, No.
3 511), known as The Local Tax Enabling Act, and the act of May
4 30, 1984 (P.L.345, No.69), known as the First Class City
5 Business Tax Reform Act.

6 "Tax increment base." The term means one or more of the
7 following, as appropriate:

8 (1) The aggregate market value of all taxable real
9 property located within a tax increment district on the date
10 the district is created.

11 (2) In a district where the governing body has levied a
12 tax on the business use and occupancy of real estate, the
13 average aggregate market value of real property located
14 within the district and used or occupied for business
15 purposes during the last available 12-month period preceding
16 the date of creation of the district.

17 (3) [In a district where the governing body has levied a
18 sales tax, the] The total amount of taxable sales, rentals
19 and services subject to the sales tax of the Commonwealth
20 under Article II of the act of March 4, 1971 (P.L.6, No.2),
21 known as the Tax Reform Code of 1971, and occurring within
22 the district during the last calendar year or the last
23 available 12-month period preceding the date of creation of
24 the district.

25 (4) In a district where the governing body has levied a
26 mercantile license tax, business privilege tax, net profits
27 tax or similar tax for the privilege of engaging in business
28 within the district, the total amount of taxable gross
29 receipts, net income or net profits, as the case may be,
30 realized by taxpayers at locations within the district during

1 their last taxable period which ended before the date of
2 creation of the district.

3 * * *

4 Section 2. Section 6(b) of the act, amended December 16,
5 1992 (P.L.1240, No.164), is amended and the section is amended
6 by adding a subsection to read:

7 Section 6. Determination of tax increment and tax increment
8 base.

9 * * *

10 (b) Determination of base.--Upon application in writing by
11 the finance officer of the municipality which created the
12 district, the assessor for that municipality shall determine,
13 according to its best judgment from all sources available to it,
14 the full aggregate market value of the taxable property in the
15 district as of the date on which the district was created. The
16 finance officer of the municipality may determine the sales tax
17 base of a sales tax levied by a governing body or any other tax
18 increment base contemplated hereby, except for the State sales
19 tax base, in any manner which is reasonable and prudent and
20 meets sound business practice.

21 (b.1) Determination of sales tax base.--Upon application in
22 writing by the finance officer of the municipality which created
23 the district, the Department of Revenue shall calculate the
24 State sales tax base under Article II of the act of March 4,
25 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, with
26 respect to vendors located within the tax incentive district.

27 * * *

28 Section 3. Section 7 of the act is amended by adding a
29 subsection to read:

30 Section 7. Allocation of positive tax increments.

1 * * *

2 (b.1) Determination and transfer of State sales tax
3 increments.--Within 30 days of the end of each quarter, the
4 Department of Revenue shall calculate and notify the Secretary
5 of the Budget of the amount of the positive State sales tax
6 increment allocable to each tax increment district. Within ten
7 days of receiving the notification, the Secretary of the Budget
8 shall direct the State Treasurer to transfer an amount equal to
9 the State sales tax increment from the General Fund to the
10 appropriate issuing authority.

11 * * *

12 Section 4. This act shall apply to tax increment districts
13 created after the effective date of this section.

14 Section 5. This act shall take effect in 60 days.