

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1237 Session of 2011

INTRODUCED BY PILEGGI, TOMLINSON, BROWNE, ERICKSON, STACK, FONTANA, GREENLEAF, FARNESE, RAFFERTY, WAUGH, COSTA, MENSCH, BOSCOLA, SOLOBAY, BLAKE AND FERLO, SEPTEMBER 7, 2011

AS AMENDED ON THIRD CONSIDERATION, DECEMBER 6, 2011

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 in keystone opportunity zones, further providing for
14 extension for unoccupied parcels and for additional expansion
15 zones; providing for expansion for new job creation; and
16 further providing for APPLICATION, FOR corporate net income
17 tax and for capital stock franchise tax; AND, IN TAX
18 ADMINISTRATION, FURTHER PROVIDING FOR APPLICATION TIME; AND
19 PROVIDING FOR MONITORING DATA.



20 The General Assembly of the Commonwealth of Pennsylvania
21 hereby enacts as follows:

22 Section 1. Sections 301.3 and 301.4 of the act of October 6,
23 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone,
24 Keystone Opportunity Expansion Zone and Keystone Opportunity
25 Improvement Zone Act, added July 10, 2008 (P.L.1014, No.79), are
26 amended to read:

1 Section 301.3. Extension for unoccupied parcels.

2 (a) Extension.--The department may approve an application to
3 extend the exemptions, deductions, abatements and credits under
4 this act as follows:

5 (1) One of the following:

6 (i) For a parcel in a keystone opportunity zone,
7 keystone opportunity expansion zone or keystone
8 opportunity improvement zone that is an unoccupied parcel
9 on the effective date of this section, for a period of
10 seven years from the expiration date of the zone.

11 (ii) For a parcel in a keystone opportunity zone or
12 keystone opportunity expansion zone that is an unoccupied
13 parcel on the effective date of this section, for a
14 period of ten years from the date of occupancy, provided
15 that the parcel is occupied on or before December 31,
16 2015.

17 (iii) For a parcel in a keystone opportunity zone,
18 keystone opportunity expansion zone or keystone
19 opportunity improvement zone or subzone that expires in
20 2013 or any year thereafter, for an additional period of
21 ten years from the date of occupancy. For a zone that
22 expires in 2013, the extension shall apply to parcels
23 that are unoccupied on the effective date of this
24 subparagraph. For a zone that expires after 2013, the
25 extension shall apply to parcels that are unoccupied on a
26 date determined by the department.

27 (2) The extension of exemptions, deductions, abatements
28 or credits authorized under this section, except exemptions
29 for sales and use tax under section 511(a) or 705(a), shall
30 take effect only upon occupancy.

1 (b) Real estate tax abatement.--The owner of an unoccupied
2 parcel in a keystone opportunity zone, keystone opportunity
3 expansion zone or keystone opportunity improvement zone that has
4 expired but that receives an extension of tax abatement
5 eligibility following the original expiration date of the
6 keystone opportunity zone, keystone opportunity expansion zone
7 or keystone opportunity improvement zone under subsection (a)
8 shall not receive an abatement of real property tax until the
9 parcel becomes occupied or developed.

10 (c) Application.--Except as provided in subsection (d), in
11 order to extend the tax benefits for unoccupied parcels under
12 subsection (a), the department must receive an application from
13 a political subdivision or its designee no later than June 30,
14 2009. The application must contain the information required
15 under section 302(a)(1), (2), (3), (5) and (6). The application
16 must include all ordinances, resolutions or other required
17 action adopted by all political subdivisions in which the
18 unoccupied parcel is located adopting the extension of all tax
19 exemptions, deductions, abatements and credits authorized under
20 Chapter 7. The department, in consultation with the Department
21 of Revenue, shall review the application and, if approved, issue
22 a certification of all tax exemptions, deductions, abatements or
23 credits under this part for the unoccupied parcel within three
24 months of receipt of the application. The certification shall be
25 effective on the day following the expiration date of the
26 existing subzone. For a keystone opportunity zone, keystone
27 opportunity expansion zone or keystone opportunity improvement
28 zone or subzone that expires in 2013 or any year thereafter, in
29 order to extend the tax benefits under subsection (a)(1)(iii),
30 the department must receive an application no later than three

1 months prior to the expiration date of the zone.

2 (d) Applications for certain zones.--For a keystone
3 opportunity zone that expires December 31, 2008, an application
4 may be submitted to the department to temporarily delay the
5 expiration of the exemptions, deductions, abatements and credits
6 for the zone until June 30, 2009. The application must be
7 submitted by November 30, 2008, and include all ordinances,
8 resolutions or other required action from all affected political
9 subdivisions approving the requested delay in the expiration of
10 the keystone opportunity zone. The department shall certify the
11 delay in the expiration by December 31, 2008. If the expiration
12 of a keystone opportunity zone is delayed under this subsection,
13 a political subdivision or its designee may apply for an
14 extension pursuant to subsection (c), provided that the
15 application shall be submitted by May 1, 2009, and approved by
16 the department no later than June 30, 2009. If an extension is
17 granted under subsection (c), the extension shall be deemed to
18 be effective January 1, 2009.

19 (e) Expiration.--All extensions of an unoccupied parcel
20 certified under subsection (a)(1)(i) shall expire no later than
21 seven years following the expiration date of the existing
22 keystone opportunity zone, keystone opportunity expansion zone
23 or keystone opportunity improvement zone. All extensions of an
24 unoccupied parcel certified under subsection (a)(1)(ii) shall
25 expire no later than ten years following the date of occupancy
26 of the unoccupied parcel. All extensions of tax benefits under
27 subsection (a)(1)(iii) for a zone that expires on January 1,
28 2013, shall expire no later than ten years following the
29 approval of the extension of the existing keystone opportunity
30 zone, keystone opportunity expansion zone or keystone

1 opportunity improvement zone or subzone. An extension of tax
2 benefits under subsection (a)(1)(iii) shall expire no sooner
3 than seven years but no later than ten years following approval
4 of the extension as determined by the department.

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 designate up to 15 additional keystone
9 opportunity expansion zones in accordance with this section.
10 Each additional keystone opportunity expansion zone shall:

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

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

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

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

19 (B) Are occupied by a business that:

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

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

29 (2) [The department shall immediately notify political
30 subdivisions located within the area designated.] In addition

1 to any designations under section 301.1 and paragraph (1),
2 the department may designate up to 15 additional keystone
3 opportunity expansion zones in accordance with this
4 subsection. Each additional keystone opportunity expansion
5 zone shall:

6 (i) Not be less than ten acres in size unless
7 contiguous to an existing zone.

8 (ii) Not exceed, in the aggregate, a total of 350
9 acres.

10 (iii) Be comprised of parcels that meet any of the
11 following criteria:

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

14 (B) Are occupied by a business that:

15 (I) creates or retains at least 1,000 full-
16 time jobs in this Commonwealth within three years
17 of the designation of the keystone opportunity
18 zone; and

19 (II) makes a capital investment of at least
20 \$500,000,000 in the additional keystone
21 opportunity expansion zone within three years of
22 the designation of the keystone opportunity
23 expansion zone.

24 (3) If a business in a keystone opportunity expansion
25 zone designated under paragraph (2) makes an investment of at
26 least \$1,000,000,000 and creates at least 400 new permanent
27 full-time jobs within seven years of the date of designation
28 by the department, the department shall grant exemptions,
29 deductions, abatements and credits under this act for a
30 period of 15 years from the date of occupancy. If the

1 business fails to comply with the provisions of this
2 paragraph, the period of the zone shall revert to ten years.

3 (b) Authorization.--Persons and businesses within an
4 additional keystone opportunity expansion zone authorized under
5 subsection [(a)] (a)(1) or (2) shall be entitled to all tax
6 exemptions, deductions, abatements or credits set forth under
7 this act, except exemptions for sales and use tax under section
8 511(a) or 705(a), for a period of ten years, beginning on
9 January 1, 2010, and ending on December 31, 2020. For a keystone
10 opportunity expansion zone established under subsection (a)(1),
11 the ten-year period shall begin on January 1, 2010, and end on
12 December 31, 2019. For a keystone opportunity expansion zone
13 established under subsection (a)(2), the ten-year period shall
14 begin on January 1, 2013, and end on December 31, 2022.

15 Exemptions for sales and use taxes under sections 511 and 705
16 shall commence upon designation of the zone by the department.

17 (c) Application.--In order to receive a designation under
18 subsection [(a)] (a)(1), the department must receive an
19 application from a political subdivision or its designee no
20 later than May 1, 2009, and no later than October 1, 2013, for a
21 keystone opportunity expansion zone established under subsection
22 (a)(2). The application must contain the information required
23 under section 302(a)(1), (2)(i) and (ix) and (6). The
24 application must include all ordinances, resolutions or other
25 required action adopted by all political subdivisions in which
26 the keystone opportunity expansion zone is located providing the
27 tax exemptions, deductions, abatements and credits authorized
28 under Chapter 7. The department, in consultation with the
29 Department of Revenue, shall review the application and, if
30 approved, issue a certification of all tax exemptions,

1 deductions, abatements or credits under this [part] act for the
2 additional keystone opportunity expansion zone within three
3 months of receipt of the application. The department shall act
4 on an application under this subsection by June 30, 2009.

5 (d) Unused keystone opportunity expansion zones.--

6 (1) The department may designate any of the 15 remaining
7 keystone opportunity expansion zones established under
8 subsection (a) for which there was no designation by the
9 department as of the effective date of this subsection. To
10 receive a designation of a remaining keystone opportunity
11 expansion zone under this subsection, the department must
12 receive an application from a political subdivision or its
13 designee by June 1, 2012. The application must comply with
14 subsection (c) except for the application deadline. The
15 department, in consultation with the Department of Revenue,
16 shall review the application and, if approved, shall issue a
17 certification of all tax exemptions, deductions, abatements
18 or credits under this act for the additional keystone
19 opportunity expansion zone within three months of receipt of
20 the application.

21 (2) Persons and businesses within an additional keystone
22 opportunity expansion zone authorized under paragraph (1)
23 shall be entitled to all tax exemptions, deductions,
24 abatements or credits set forth under this act, except
25 exemptions for sales and use tax under section 511(a) or
26 705(a), for a period of ten years beginning January 1, 2013,
27 and ending December 31, 2022. Exemptions for sales and use
28 taxes under sections 511 and 705 shall commence upon
29 designation of the zone by the department.

30 (e) Notice.--Upon designation under this section, the

1 department shall immediately notify political subdivisions
2 located within the area designated.

3 Section 2. The act is amended by adding a section to read:
4 Section 301.7. Expansion for new job creation.

5 (a) Expansion.--The department may approve an application to
6 expand the area of a keystone opportunity zone, keystone
7 opportunity expansion zone or keystone opportunity improvement
8 zone or subzone to include additional parcels that are
9 deteriorated, underutilized or unoccupied on the effective date
10 of this section and which are contiguous to the existing zone
11 not to exceed 15 acres. All exemptions, deductions, abatements
12 and credits under this act shall be extended to the new parcels
13 for a period of ten years following approval of the expansion of
14 the keystone opportunity zone, keystone opportunity expansion
15 zone or keystone opportunity improvement zone.

16 (b) Application.--The following shall apply:

17 (1) In order to extend the tax exemptions, deductions,
18 abatements and credits under this act to additional parcels
19 under subsection (a), the department must receive an
20 application from a political subdivision or its designee by
21 October 1, 2012.

22 (2) The application under paragraph (1) must:

23 (i) Contain the information required under section
24 302(a)(1), (2), (3), (5) and (6).

25 (ii) Include all ordinances, resolutions or other
26 required action adopted by all political subdivisions in
27 which the unoccupied, deteriorated or underutilized
28 parcel is located adopting the expansion of the zone and
29 the extension of all tax exemptions, deductions,
30 abatements and credits authorized under Chapter 7.

1 (3) The department, in consultation with the Department
2 of Revenue, shall review the application and, if approved,
3 issue a certification of all tax exemptions, deductions,
4 abatements or credits under this chapter for the unoccupied
5 parcel within three months of receipt of the application.

6 (4) The certification under paragraph (3) shall be
7 effective ten days following designation of the expansion by
8 the department.

9 (c) Expiration.--All expansions of an unoccupied parcel
10 certified under subsection (b) shall expire no later than ten
11 years following the effective date of certification by the
12 department.

13 SECTION 2.1. SECTION 302(B) OF THE ACT, AMENDED DECEMBER 9, ←
14 2002 (P.L.1727, NO.217), IS AMENDED TO READ:

15 SECTION 302. APPLICATION.

16 * * *

17 (B) PARTICIPATION LIMITATION.--A POLITICAL SUBDIVISION SHALL
18 NOT BE A PART OF MORE THAN ONE PROPOSED KEYSTONE OPPORTUNITY
19 ZONE OR PROPOSED KEYSTONE OPPORTUNITY EXPANSION ZONE, UNLESS THE
20 DEPARTMENT AGREES THAT TWO ZONES WILL BRING ADDITIONAL ECONOMIC
21 BENEFIT TO THE POLITICAL SUBDIVISION. A PROPOSED EXPANSION
22 SUBZONE MAY NOT OVERLAP THE BOUNDARIES OF A SUBZONE.

23 * * *

24 Section 3. Sections 515(g) and 516(f) of the act, amended
25 December 9, 2002 (P.L.1727, No.217), are amended to read:

26 Section 515. Corporate net income tax.

27 * * *

28 (g) Section not applicable to certain businesses.--[Any
29 portion of the taxpayer's taxable income that is attributable to
30 the operation of a railroad, truck, bus or airline company,

1 pipeline or natural gas company, water transportation company, a
2 corporation that qualifies as a regulated investment company
3 under Article IV of the Tax Reform Code of 1971 or holding
4 company as defined in Article VI of the Tax Reform Code of 1971
5 shall not be used to calculate a credit under this section.] The
6 following shall apply:

7 (1) Any portion of the taxpayer's taxable income that is
8 attributable to the operation of any of the following may not
9 be used to calculate a credit under this section:

10 (i) Any of the following that are required to use
11 special apportionment under Article IV of the Tax Reform
12 Code of 1971 or would be required to use special
13 apportionment under Article IV of the Tax Reform Code of
14 1971 if the taxpayer had income from business activity
15 taxable both within and without this Commonwealth:

16 (A) A railroad, truck, bus or airline company.

17 (B) A pipeline or natural gas company.

18 (C) A water transportation company.

19 (ii) A corporation that qualifies as a regulated
20 investment company under Article IV of the Tax Reform
21 Code of 1971.

22 (iii) A holding company as defined in Article VI of
23 the Tax Reform Code of 1971.

24 (2) The prohibition under paragraph (1) shall not apply
25 to the portion of a qualified business engaged in
26 manufacturing or processing.

27 Section 516. Capital stock franchise tax.

28 * * *

29 (f) Credit not available.--[Any portion of the taxpayer's
30 tax liability that is attributable to the capital employed in

1 the operation of a railroad, truck, bus or airline company,
2 pipeline or natural gas company, water transportation company, a
3 corporation that qualifies as a regulated investment company
4 under Article IV of the Tax Reform Code of 1971 or holding
5 company as defined in Article VI of the Tax Reform Code of 1971
6 shall not be used to calculate a credit under this section.] The
7 following shall apply:

8 (1) Any portion of the taxpayer's tax liability that is
9 attributable to the capital employed in the operation of any
10 of the following may not be used to calculate a credit under
11 this section:

12 (i) Any of the following that are required to use
13 special apportionment under Article IV of the Tax Reform
14 Code of 1971 or would be required to use special
15 apportionment under Article IV of the Tax Reform Code of
16 1971 if the taxpayer had income from business activity
17 taxable both within and without this Commonwealth:

18 (A) A railroad, truck, bus or airline company.

19 (B) A pipeline or natural gas company.

20 (C) A water transportation company.

21 (ii) A corporation that qualifies as a regulated
22 investment company under Article IV of the Tax Reform
23 Code of 1971.

24 (iii) A holding company as defined in Article VI of
25 the Tax Reform Code of 1971.

26 (2) The prohibition under paragraph (1) shall not apply
27 to the portion of a qualified business engaged in
28 manufacturing or processing.

29 SECTION 4. SECTION 907 OF THE ACT, AMENDED DECEMBER 9, 2002
30 (P.L.1727, NO.217), IS AMENDED TO READ:



1 SECTION 907. APPLICATION TIME.

2 [AN] (A) REQUIREMENT.--EXCEPT AS SET FORTH IN SUBSECTION
3 (B), AN APPLICANT MUST FILE AN APPLICATION IN A MANNER
4 PRESCRIBED BY THE DEPARTMENT BY DECEMBER 31 OF EACH CALENDAR
5 YEAR FOR WHICH THE APPLICANT CLAIMS ANY EXEMPTION, DEDUCTION,
6 ABATEMENT OR CREDIT UNDER THIS ACT.

7 (B) EXTENSION OR WAIVER.--UPON REQUEST OF THE APPLICANT, THE
8 DEPARTMENT MAY EXTEND OR WAIVE THE APPLICATION DEADLINE FOR GOOD
9 CAUSE SHOWN IF THE POLITICAL SUBDIVISION DOES NOT OBJECT TO THE
10 WAIVER OR EXTENSION.

11 (C) APPROVAL.--NO EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT
12 MAY BE CLAIMED OR RECEIVED FOR THAT CALENDAR YEAR UNTIL APPROVAL
13 HAS BEEN GRANTED BY THE DEPARTMENT.

14 SECTION 5. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
15 SECTION 1104. MONITORING DATA.

16 IN ADDITION TO ANY OTHER REQUIREMENTS OF THIS ACT, THE
17 DEPARTMENT SHALL MONITOR ALL OF THE FOLLOWING:

18 (1) VERIFIABLE JOB CREATION AND JOB RETENTION DATA.

19 (2) INFORMATION ON THE TYPES OF JOBS CREATED AND AVERAGE
20 HOURLY WAGES.

21 (3) NUMBER OF YEARS IN THE PROGRAM.

22 (4) ANNUAL, UNDUPLICATED PUBLIC AND PRIVATE CAPITAL
23 INVESTMENT AMOUNTS.

24 (5) BUSINESS TYPE AND DESCRIPTION.

25 (6) TYPES AND AMOUNTS OF OTHER ECONOMIC DEVELOPMENT
26 ASSISTANCE RECEIVED FROM THE DEPARTMENT.

27 (7) DOCUMENTATION THAT PROPER PARTICIPANTS IDENTIFIED AS
28 RELOCATIONS MEET THE INCREASED FULL-TIME EMPLOYMENT,
29 INCREASED CAPITAL INVESTMENT OR LEASE AGREEMENT REQUIREMENTS
30 OF THIS ACT.

1 SECTION 6. THE AMENDMENT OF SECTION 907 OF THE ACT SHALL
2 APPLY RETROACTIVELY TO JANUARY 1, 2009.

3 Section ~~4~~ 7. This act shall take effect immediately.

