
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 REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, JANUARY 18, 2012

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; further
16 providing for application, FOR QUALIFIED BUSINESSES, for ←
17 corporate net income tax and for capital stock franchise tax;
18 and, in tax administration, further providing for application
19 time; ~~and~~ providing for monitoring data; AND REPEALING ←
20 EXPIRATION PROVISION.

21 The General Assembly of the Commonwealth of Pennsylvania

22 hereby enacts as follows:

23 Section 1. Sections 301.3 and 301.4 of the act of October 6,
24 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone,
25 Keystone Opportunity Expansion Zone and Keystone Opportunity

1 Improvement Zone Act, added July 10, 2008 (P.L.1014, No.79), are
2 amended to read:

3 Section 301.3. Extension for unoccupied parcels.

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

7 (1) One of the following:

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

13 (ii) For a parcel in a keystone opportunity zone or
14 keystone opportunity expansion zone that is an unoccupied
15 parcel on the effective date of this section, for a
16 period of ten years from the date of occupancy, provided
17 that the parcel is occupied on or before December 31,
18 2015.

19 (iii) For a parcel in a keystone opportunity zone,
20 keystone opportunity expansion zone or keystone
21 opportunity improvement zone or subzone that expires in
22 2013 or any year thereafter, for an additional period of
23 NO LESS THAN SEVEN YEARS BUT NO MORE THAN ten years from ←
24 the date of occupancy OR FROM THE EXPIRATION DATE OF THE ←
25 ZONE AS DETERMINED BY THE DEPARTMENT. For a zone that
26 expires in 2013, the extension shall apply to parcels
27 that are unoccupied on the effective date of this
28 subparagraph. For a zone that expires after 2013, the
29 extension shall apply to parcels that are unoccupied on a
30 date determined by the department.

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

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

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

1 opportunity expansion zone or keystone opportunity improvement
2 zone or subzone that expires in 2013 or any year thereafter, in
3 order to extend the tax benefits under subsection (a)(1)(iii),
4 the department must receive an application no later than three
5 months prior to the expiration date of the zone.

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

23 (e) Expiration.--All extensions of an unoccupied parcel
24 certified under subsection (a)(1)(i) shall expire no later than
25 seven years following the expiration date of the existing
26 keystone opportunity zone, keystone opportunity expansion zone
27 or keystone opportunity improvement zone. All extensions of an
28 unoccupied parcel certified under subsection (a)(1)(ii) shall
29 expire no later than ten years following the date of occupancy
30 of the unoccupied parcel. All extensions of tax benefits under

1 subsection (a)(1)(iii) for a zone that expires on January 1,
2 2013, shall expire no later than ten years following the
3 approval of the extension of the existing keystone opportunity
4 zone, keystone opportunity expansion zone or keystone
5 opportunity improvement zone or subzone. An extension of tax
6 benefits under subsection (a)(1)(iii) shall expire no sooner
7 than seven years but no later than ten years following approval
8 of the extension OR THE EXPIRATION DATE OF THE ZONE as ←
9 determined by the department.

10 Section 301.4. Additional keystone opportunity expansion zones.

11 (a) Establishment.--

12 (1) In addition to any designations under section 301.1,
13 the department may designate up to 15 additional keystone
14 opportunity expansion zones in accordance with this section.
15 Each additional keystone opportunity expansion zone shall:

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

18 (ii) Not exceed, in the aggregate, a total of 350
19 acres.

20 (iii) Be comprised of parcels that meet any of the
21 following criteria:

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

24 (B) Are occupied by a business that:

25 (I) Creates or retains at least 1,400 full-
26 time jobs in this Commonwealth within three years
27 of the designation of the keystone opportunity
28 expansion zone; and

29 (II) Makes a capital investment of at least
30 \$750,000,000 in the additional keystone

1 opportunity enhancement zone within three years
2 of the designation of the keystone opportunity
3 expansion zone.

4 (2) [The department shall immediately notify political
5 subdivisions located within the area designated.] In addition
6 to any designations under section 301.1 and paragraph (1),
7 the department may designate up to 15 additional keystone
8 opportunity expansion zones in accordance with this
9 subsection. Each additional keystone opportunity expansion
10 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 1,000 full-
21 time jobs in this Commonwealth within three years
22 of the designation of the keystone opportunity
23 zone; and

24 (II) makes a capital investment of at least
25 \$500,000,000 in the additional keystone
26 opportunity expansion zone within three years of
27 the designation of the keystone opportunity
28 expansion zone.

29 (3) If a business in a keystone opportunity expansion
30 zone designated under paragraph (2) makes an investment of at

1 least \$1,000,000,000 and ~~creates~~ THE BUSINESS AND ITS ←
2 AFFILIATES, AS DETERMINED BY THE DEPARTMENT, CREATE at least
3 400 new permanent full-time jobs IN ONE OR MORE ZONES within ←
4 seven years of the date of designation by the department, the
5 department shall grant TO THE BUSINESS AND ITS AFFILIATES IN ←
6 EACH OF THE DESIGNATED ZONES exemptions, deductions,
7 abatements and credits under this act for a period of 15
8 years from the date of occupancy. If the business ~~fails~~ AND ←
9 ITS AFFILIATES FAIL to comply with the provisions of this
10 paragraph, the period of the zone shall revert to ten years.

11 (b) Authorization.--Persons and businesses within an
12 additional keystone opportunity expansion zone authorized under
13 subsection [(a)] (a)(1) or (2) shall be entitled to all tax
14 exemptions, deductions, abatements or credits set forth under
15 this act, except exemptions for sales and use tax under section
16 511(a) or 705(a), for a period of ten years, beginning on
17 January 1, 2010, and ending on December 31, 2020. For a keystone
18 opportunity expansion zone established under subsection (a)(1),
19 the ten-year period shall begin on January 1, 2010, and end on
20 December 31, 2019. For a keystone opportunity expansion zone
21 established under subsection (a)(2), the ten-year period shall
22 begin on January 1, 2013 2014, and end on December 31, 2022 ←
23 2023. Exemptions for sales and use taxes under sections 511 and ←
24 705 shall commence upon designation of the zone by the
25 department.

26 (c) Application.--In order to receive a designation under
27 subsection [(a)] (a)(1), the department must receive an
28 application from a political subdivision or its designee no
29 later than May 1, 2009, and no later than October 1, 2013, for a
30 keystone opportunity expansion zone established under subsection

1 (a)(2). The application must contain the information required
2 under section 302(a)(1), (2)(i) and (ix) and (6). The
3 application must include all ordinances, resolutions or other
4 required action adopted by all political subdivisions in which
5 the keystone opportunity expansion zone is located providing the
6 tax exemptions, deductions, abatements and credits authorized
7 under Chapter 7. The department, in consultation with the
8 Department of Revenue, shall review the application and, if
9 approved, issue a certification of all tax exemptions,
10 deductions, abatements or credits under this [part] act for the
11 additional keystone opportunity expansion zone within three
12 months of receipt of the application. The department shall act
13 on an application under this subsection by June 30, 2009.

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

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

30 (2) Persons and businesses within an additional keystone

1 opportunity expansion zone authorized under paragraph (1)
2 shall be entitled to all tax exemptions, deductions,
3 abatements or credits set forth under this act, except
4 exemptions for sales and use tax under section 511(a) or
5 705(a), for a period of ten years beginning January 1, 2013,
6 and ending December 31, 2022. Exemptions for sales and use
7 taxes under sections 511 and 705 shall commence upon
8 designation of the zone by the department.

9 (e) Notice.--Upon designation under this section, the
10 department shall immediately notify political subdivisions
11 located within the area designated.

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

14 (a) Expansion.--The department may approve an application to
15 expand the area of a keystone opportunity zone, keystone
16 opportunity expansion zone or keystone opportunity improvement
17 zone or subzone to include additional parcels that are
18 deteriorated, underutilized or unoccupied on the effective date
19 of this section and which are contiguous to the existing zone
20 not to exceed 15 acres IF THE EXPANSION APPROVAL IS EXPECTED TO ←
21 INCREASE JOB CREATION OR CAPITAL INVESTMENT. All exemptions,
22 deductions, abatements and credits under this act shall be
23 extended to the new parcels for a period of ten years following
24 approval of the expansion of the keystone opportunity zone,
25 keystone opportunity expansion zone or keystone opportunity
26 improvement zone.

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

28 (1) In order to extend the tax exemptions, deductions,
29 abatements and credits under this act to additional parcels
30 under subsection (a), the department must receive an

1 application from a political subdivision or its designee by
2 October 1, 2012.

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

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

6 (ii) Include all ordinances, resolutions or other
7 required action adopted by all political subdivisions in
8 which the unoccupied, deteriorated or underutilized
9 parcel is located adopting the expansion of the zone and
10 the extension of all tax exemptions, deductions,
11 abatements and credits authorized under Chapter 7.

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

17 (4) The certification under paragraph (3) shall be
18 effective ten days following designation of the expansion by
19 the department.

20 (c) Expiration.--All expansions of an unoccupied parcel
21 certified under subsection (b) shall expire no later than ten
22 years following the effective date of certification by the
23 department.

24 ~~Section 2.1. Section 302(b) of the act, amended December 9,~~ ←
25 ~~2002 (P.L.1727, No.217), is amended to read:~~

26 SECTION 3. SECTIONS 302(B), 307(A), 515(G), 516(F) AND 907 ←
27 OF THE ACT, AMENDED DECEMBER 9, 2002 (P.L.1727, NO.217), ARE
28 AMENDED TO READ:

29 Section 302. Application.

30 * * *

1 (b) Participation limitation.--A political subdivision shall
2 not be a part of more than one proposed keystone opportunity
3 zone or proposed keystone opportunity expansion zone, unless the
4 department agrees that two zones will bring additional economic
5 benefit to the political subdivision. A proposed expansion
6 subzone may not overlap the boundaries of a subzone.

7 * * *

8 SECTION 307. QUALIFIED BUSINESSES. ←

9 (A) QUALIFICATIONS.--IN ORDER TO QUALIFY EACH YEAR FOR A TAX
10 EXEMPTION, DEDUCTION, ABATEMENT OR CREDIT UNDER THIS ACT, A
11 BUSINESS SHALL OWN OR LEASE REAL PROPERTY IN A SUBZONE,
12 IMPROVEMENT SUBZONE OR EXPANSION SUBZONE FROM WHICH THE BUSINESS
13 ACTIVELY CONDUCTS A TRADE, PROFESSION OR BUSINESS. THE QUALIFIED
14 BUSINESS SHALL RECEIVE CERTIFICATION FROM THE DEPARTMENT THAT
15 THE BUSINESS IS LOCATED AND IS IN THE ACTIVE CONDUCT OF A TRADE,
16 PROFESSION OR BUSINESS, WITHIN THE SUBZONE, IMPROVEMENT SUBZONE
17 OR EXPANSION SUBZONE. THE BUSINESS SHALL OBTAIN ANNUAL RENEWAL
18 OF THE CERTIFICATION FROM THE DEPARTMENT TO CONTINUE TO QUALIFY
19 UNDER THIS SECTION. THE CERTIFICATION FORM SHALL INCLUDE, BUT
20 NOT BE LIMITED TO, ALL OF THE FOLLOWING:

21 (1) THE TYPE AND DURATION OF THE ZONE DESIGNATION.

22 (2) THE NUMBER OF JOBS CREATED.

23 (3) THE NUMBER OF JOBS RETAINED.

24 (4) THE AMOUNT OF CAPITAL INVESTMENT.

25 (5) ANY OTHER INFORMATION, CONDITIONS OR REQUIREMENTS
26 REASONABLY REQUIRED BY THE DEPARTMENT.

27 * * *

28 ~~Section 3. Sections 515(g) and 516(f) of the act, amended ←~~
29 ~~December 9, 2002 (P.L.1727, No.217), are amended to read:~~
30 Section 515. Corporate net income tax.

1 * * *

2 (g) Section not applicable to certain businesses.--[Any
3 portion of the taxpayer's taxable income that is attributable to
4 the operation of a railroad, truck, bus or airline company,
5 pipeline or natural gas company, water transportation company, a
6 corporation that qualifies as a regulated investment company
7 under Article IV of the Tax Reform Code of 1971 or holding
8 company as defined in Article VI of the Tax Reform Code of 1971
9 shall not be used to calculate a credit under this section.] The
10 following shall apply:

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

14 (i) Any of the following that are required to use
15 special apportionment under Article IV of the Tax Reform
16 Code of 1971 or would be required to use special
17 apportionment under Article IV of the Tax Reform Code of
18 1971 if the taxpayer had income from business activity
19 taxable both within and without this Commonwealth:

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

21 (B) A pipeline or natural gas company.

22 (C) A water transportation company.

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

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

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

1 Section 516. Capital stock franchise tax.

2 * * *

3 (f) Credit not available.--[Any portion of the taxpayer's
4 tax liability that is attributable to the capital employed in
5 the operation of a railroad, truck, bus or airline company,
6 pipeline or natural gas company, water transportation company, a
7 corporation that qualifies as a regulated investment company
8 under Article IV of the Tax Reform Code of 1971 or holding
9 company as defined in Article VI of the Tax Reform Code of 1971
10 shall not be used to calculate a credit under this section.] The
11 following shall apply:

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

16 (i) Any of the following that are required to use
17 special apportionment under Article IV of the Tax Reform
18 Code of 1971 or would be required to use special
19 apportionment under Article IV of the Tax Reform Code of
20 1971 if the taxpayer had income from business activity
21 taxable both within and without this Commonwealth:

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

23 (B) A pipeline or natural gas company.

24 (C) A water transportation company.

25 (ii) A corporation that qualifies as a regulated
26 investment company under Article IV of the Tax Reform
27 Code of 1971.

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

30 (2) The prohibition under paragraph (1) shall not apply

1 to the portion of a qualified business engaged in
2 manufacturing or processing.

3 ~~Section 4. Section 907 of the act, amended December 9, 2002~~ ←
4 ~~(P.L.1727, No.217), is amended to read:~~

5 Section 907. Application time.

6 [An] (a) Requirement.--Except as set forth in subsection
7 (b), an applicant must file an application in a manner
8 prescribed by the department by December 31 of each calendar
9 year for which the applicant claims any exemption, deduction,
10 abatement or credit under this act.

11 (b) Extension or waiver.--Upon request of the applicant, the
12 department may extend or waive the application deadline for good
13 cause shown if the political subdivision does not object to the
14 waiver or extension.

15 (c) Approval.--No exemption, deduction, abatement or credit
16 may be claimed or received for that calendar year until approval
17 has been granted by the department.

18 Section 5 4. The act is amended by adding a section to read: ←
19 Section 1104. Monitoring data.

20 In addition to any other requirements of this act, the
21 department shall monitor all of the following:

22 (1) Verifiable job creation and job retention data.

23 (2) Information on the types of jobs created and average
24 hourly wages.

25 (3) Number of years in the program.

26 (4) Annual, unduplicated public and private capital
27 investment amounts.

28 (5) Business type and description.

29 (6) Types and amounts of other economic development
30 assistance received from the department.

1 (7) Documentation that proper participants identified as
2 relocations meet the increased full-time employment,
3 increased capital investment or lease agreement requirements
4 of this act.

5 SECTION 5. SECTION 1309 OF THE ACT, AMENDED DECEMBER 9, 2002 ←
6 (P.L.1727, NO.217), IS REPEALED:

7 [SECTION 1309. EXPIRATION.

8 THIS ACT AND ALL BENEFITS ASSOCIATED WITH THIS ACT SHALL
9 TERMINATE DECEMBER 31, 2018.]

10 Section 6. The amendment of section 907 of the act shall
11 apply retroactively to January 1, 2009.

12 Section 7. This act shall take effect immediately.