

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 493** Session of
2013

INTRODUCED BY GABLER, STERN, KNOWLES, STEPHENS, RAPP, LAWRENCE,
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FEBRUARY 4, 2013

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, FEBRUARY 12, 2013

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

19 Section 302. Definitions.

20 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 * * *

4 "Applicant." A person that is seeking funding for a
5 redevelopment assistance capital project that has been listed in
6 a capital project itemization bill and that is one of the
7 following:

8 (1) A redevelopment authority.

9 (2) An industrial development authority.

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

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

15 (5) A public authority established pursuant to the laws
16 of this Commonwealth.

17 (6) An industrial development agency:

18 (i) which has been certified as an industrial
19 development agency by the Pennsylvania Industrial
20 Development Authority Board under the act of May 17, 1956
21 (1955 P.L.1609, No.537), known as the Pennsylvania
22 Industrial Development Authority Act; and

23 (ii) which is itself or which is acting through a
24 wholly owned subsidiary that is exempt from Federal
25 taxation under section 501(c)(3) of the Internal Revenue
26 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

27 "Capital project." A flood control, highway, public
28 improvement, redevelopment assistance capital or transportation
29 assistance project which is financed by debt or by other funds
30 and which meets all of the following:

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

3 (i) building, structure, facility, infrastructure or
4 physical public betterment or improvement;

5 (ii) land or rights in land; or

6 (iii) furnishings, machinery, apparatus or equipment
7 for a building, structure, facility or physical public
8 betterment or improvement.

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

11 (3) Has an estimated useful life in excess of five
12 years.

13 (4) Has an estimated financial cost in excess of
14 \$100,000. This paragraph does not apply to original equipment
15 or furnishings for previously authorized public improvement
16 projects.

17 [Capital projects are categorized as flood control projects,
18 highway projects, public improvement projects, redevelopment
19 assistance capital projects and transportation assistance
20 projects.]

21 * * *

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

23 * * *

24 "Redevelopment assistance capital project." The design and
25 construction of [facilities] a project which [meet] meets all of
26 the following:

27 (1) [Are facilities, other than] Is a project, including
28 infrastructure associated with the project. A project does
29 not include highways, bridges, waste disposal facilities,
30 sewage facilities or water facilities. This paragraph

1 includes:

2 (i) [Water] Storm water, water or sewer
3 infrastructure, or tunnels, bridges or roads, when
4 [included as part of a business or industrial park
5 facility] associated with a project that is part of an
6 economic development project.

7 (ii) Hospital facilities and capital improvements
8 for hospital facilities.

9 (2) [Are economic development projects which] Is a
10 project which will generate substantial increases in or
11 maintain current levels of employment, tax revenues or other
12 measures of economic activity. This paragraph includes
13 projects with cultural, historical or civic significance AND <--
14 HOUSING PROJECTS THAT WILL SUPPORT AND GENERATE ECONOMIC
15 ACTIVITY.

16 (3) [Are facilities which have] Is a project that has a
17 regional or multijurisdictional impact OR, IN THE CASE OF <--
18 HOUSING, IS PART OF A COMMUNITY REVITALIZATION PLAN.

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

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

25 (i) at least half of which is secured funding;

26 (ii) toward which the only noncash non-State
27 financial participation permitted is land or fixed assets
28 which have a substantial useful life and are directly
29 related to the project;

30 (iii) toward which State funds from other programs

1 may not be used; and

2 (iv) toward which funds from Federal sources may be
3 used.

4 (6) [Have] Has a total project cost of at least
5 \$1,000,000.

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

7 (i) A redevelopment authority.

8 (ii) An industrial development authority.

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

10 (iv) A local development district which has an
11 agreement with a general purpose unit of local government
12 under which the unit assumes ultimate responsibility for
13 debt incurred to obtain the 50% non-State participation
14 required by paragraph (5).

15 (v) Any public authority established pursuant to the
16 laws of this Commonwealth.

17 (vi) An industrial development agency which has been
18 certified as an industrial development agency by the
19 Pennsylvania Industrial Development Authority Board
20 pursuant to the act of May 17, 1956 (1955 P.L.1609,
21 No.537), known as the Pennsylvania Industrial Development
22 Authority Act, and which is itself or which is acting
23 through a wholly owned subsidiary which is exempt from
24 Federal taxation under section 501(c)(3) of the Internal
25 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et
26 seq.).

27 The term also includes a fire truck and firefighting equipment
28 to the extent that the request for assistance does not exceed
29 \$50,000.] (Reserved).

30 * * *

1 "Secretary." The Secretary of the Budget.

2 * * *

3 Section 2. Sections 303 and 313.1 of the act, amended or
4 added December 22, 2005 (P.L.454, No.87), are amended to read:

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

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

12 (b) Itemization bill.--

13 [(1) Except as set forth in paragraph (2), the capital
14 budget bill must specifically itemize, by brief identifying
15 description and estimated financial cost, the capital
16 projects to be financed from the proceeds of obligations of
17 the Commonwealth.

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

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

21 (ii) included in one or more supplemental capital
22 budget bills.

23 (3) Projects must be listed in separate categories as
24 well as according to the fund to be charged with the
25 repayment of the obligations to be incurred.

26 (4) The capital budget bill must state the maximum
27 amount of such obligations which may be incurred in the
28 ensuing fiscal year to provide funds for and towards the
29 financial costs of each category of capital projects, which
30 shall be by the issue of general obligations of the

1 Commonwealth.]

2 No redevelopment assistance capital project may receive funds
3 unless the project was itemized in a capital budget project
4 itemization bill, a capital budget bill or a capital project
5 itemization bill enacted within ten years of the date the
6 project is approved under section 318 or the project has been
7 approved by the secretary on or before December 31, 2012. Each
8 capital project must be listed under its category and include
9 all of the following:

10 (1) A specific description of the capital project,
11 including the municipality in which the capital project is
12 located.

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

14 (3) The fund to be charged with the repayment of the
15 obligation to be incurred.

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

18 (d) [Additional bills] Debt authorization bill.--At the time
19 the Governor submits the [capital budget or a supplement]
20 General Appropriation Bill for a fiscal year, the Governor
21 shall, to the extent the debt to be incurred is not within the
22 limits of legislation then in force authorizing the incurring of
23 debt, submit [additional bills for each category of capital
24 projects,] a capital budget bill authorizing the [incurring of
25 debt] maximum amount of general obligation debt to be incurred
26 in the ensuing fiscal year to provide funds for and towards the
27 payment of the financial costs of capital projects in [such]
28 each category of capital projects which have been specifically
29 itemized in a [capital budget for the same or any prior year]
30 capital project itemization bill.

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

3 (1) State the category of capital projects to be
4 financed by the debt so authorized but need not enumerate the
5 capital projects to be financed.

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

10 (3) State the estimated useful lives of the capital
11 projects to be financed in such detail as may be requisite if
12 capital projects of varying useful lives are to be combined
13 for financing purposes.

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

15 Section 313.1. Reports related to redevelopment assistance
16 capital projects.

17 The Secretary of the Budget shall, within ten days of the
18 expiration of each quarter of each fiscal year, provide to the
19 chairman and minority chairman of the Appropriations Committee
20 of the Senate and the chairman and minority chairman of the
21 Appropriations Committee of the House of Representatives a
22 report relating to redevelopment assistance capital projects
23 which addresses at least all of the following materials:

24 (1) An itemized list of the redevelopment assistance
25 capital projects approved [for release and construction] in
26 the preceding quarter.

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

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

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

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

6 Section 317. Appropriation for and limitation on redevelopment
7 assistance capital projects.

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

13 (b) Limitation.--The maximum amount of redevelopment
14 assistance capital projects undertaken by the Commonwealth for
15 which obligations are outstanding shall not exceed, in
16 aggregate, [\$4,050,000,000.] \$3,450,000,000.

17 (c) Housing units.--An amount not to exceed [\$25,000,000] <--
18 \$50,000,000 of the amount under subsection (b) may be used for <--
19 the construction of housing units.

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

22 Section 318. [Funding and administration] Administration of
23 redevelopment assistance capital projects.

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

27 (a.1) Application.--An applicant shall submit an application
28 to the office consistent with the timeline established by the
29 office requesting a grant for a redevelopment assistance capital
30 project. The proposal must be on the form required by the office

1 and must include or demonstrate all of the following:

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

3 (2) The location of the project.

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

6 (4) A statement of the amount of the project grant
7 sought, including a statement as to the financial necessity
8 for the project grant.

9 (5) Any other information required by the office.

10 (a.2) Review and approval.--The office shall review the
11 application to determine if all the requirements have been met.

12 Upon being satisfied that all requirements have been met and
13 after allowing for a 30-day public comment period, the secretary
14 may approve the application, and, if approved, the office shall
15 notify:

16 (1) The applicant.

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

18 (3) The Majority Leader of the Senate.

19 (4) The Minority Leader of the Senate.

20 (5) The chairman and minority chairman of the
21 Appropriations Committee of the Senate.

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

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

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

25 (9) The chairman and minority chairman of the
26 Appropriations Committee of the House of Representatives.

27 (10) The State Senator and the State Representative of
28 the district where the redevelopment assistance capital
29 project is located.

30 (a.3) Acceptance and grant agreement.--Within 30 days of

1 receiving notification of approval under subsection (a.2), an
2 applicant shall notify the office if the applicant accepts the
3 grant. If the applicant notifies the office that it intends to
4 accept the grant, the office shall forward to the applicant a
5 grant agreement to be executed by the applicant. The grant
6 agreement and any attachments thereto shall include the
7 following:

8 (1) The name and address of who will administer the
9 grant.

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

11 (3) An itemized statement of cost associated with the
12 project.

13 (4) A contract obligating the applicant to use the grant
14 for the project.

15 (5) A request for any other information the office may
16 require.

17 (a.4) Execution.--The applicant shall return the information
18 requested and the executed contract within the timelines
19 established by the office. If the applicant fails to return the
20 executed contract within the timelines established by the office
21 or 180 days of notification under subsection (a.2), whichever is
22 less, no contract may be executed by the office for the grant.

23 (b) Time period.--State funding for approved redevelopment
24 assistance capital projects shall be paid over not less than a
25 36-month period unless the [Secretary of the Budget] secretary
26 authorizes a shorter period.

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

30 (e) Verification.--Redevelopment assistance capital project

1 cost estimates must be verified by the [Office of the Budget]
2 office or its designated agent before final approval is given to
3 a project application. Cost estimates include total project
4 cost, projected use for State and non-State funds and a year-by-
5 year schedule of costs for the entire project construction
6 phase.

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

15 (g) Review and audit.--Redevelopment assistance capital
16 projects shall be reviewed at regular intervals by the [Office
17 of the Budget] office or its designated agent during the funding
18 phase to ensure financial and program compliance. A final
19 closeout audit shall be performed by the [Office of the Budget]
20 office or its designated agent for all projects.

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

26 (i) Grant administration.--In the event any applicant does
27 not administer the grant, the applicant shall enter into a
28 cooperation agreement with the entity administering the grant,
29 which agreement shall be subject to the approval of the [Office
30 of the Budget] office.

1 (j) 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. The guidelines must be posted on the Internet website
8 of the office.

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

15 Section 5. The amendment of the definition of "redevelopment
16 assistance capital project" in section 302 of the act shall
17 apply to capital projects that have not been approved by the
18 Secretary of the Budget on or before December 31, 2012.

19 Section 6. This act shall take effect immediately.