

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 947 Session of 2013

INTRODUCED BY SMUCKER, PILEGGI, WAUGH AND BLAKE, MAY 29, 2013

REFERRED TO FINANCE, MAY 29, 2013

AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,  
 2 as amended, "An act relating to the finances of the State  
 3 government; providing for the settlement, assessment,  
 4 collection, and lien of taxes, bonus, and all other accounts  
 5 due the Commonwealth, the collection and recovery of fees and  
 6 other money or property due or belonging to the Commonwealth,  
 7 or any agency thereof, including escheated property and the  
 8 proceeds of its sale, the custody and disbursement or other  
 9 disposition of funds and securities belonging to or in the  
 10 possession of the Commonwealth, and the settlement of claims  
 11 against the Commonwealth, the resettlement of accounts and  
 12 appeals to the courts, refunds of moneys erroneously paid to  
 13 the Commonwealth, auditing the accounts of the Commonwealth  
 14 and all agencies thereof, of all public officers collecting  
 15 moneys payable to the Commonwealth, or any agency thereof,  
 16 and all receipts of appropriations from the Commonwealth,  
 17 authorizing the Commonwealth to issue tax anticipation notes  
 18 to defray current expenses, implementing the provisions of  
 19 section 7(a) of Article VIII of the Constitution of  
 20 Pennsylvania authorizing and restricting the incurring of  
 21 certain debt and imposing penalties; affecting every  
 22 department, board, commission, and officer of the State  
 23 government, every political subdivision of the State, and  
 24 certain officers of such subdivisions, every person,  
 25 association, and corporation required to pay, assess, or  
 26 collect taxes, or to make returns or reports under the laws  
 27 imposing taxes for State purposes, or to pay license fees or  
 28 other moneys to the Commonwealth, or any agency thereof,  
 29 every State depository and every debtor or creditor of the  
 30 Commonwealth," providing for City Revitalization and  
 31 Improvement Zones.

32 The General Assembly of the Commonwealth of Pennsylvania  
 33 hereby enacts as follows:

1 Section 1. The act of April 9, 1929 (P.L.343, No.176), known  
2 as The Fiscal Code, is amended by adding an article to read:

3 ARTICLE XVI-K

4 CITY REVITALIZATION

5 AND IMPROVEMENT ZONES

6 Section 1601-K. Scope of article.

7 This article relates to city revitalization and improvement  
8 zones.

9 Section 1602-K. Definitions.

10 The following words and phrases when used in this article  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "City." A city of the third class with a population of at  
14 least 40,000 and not more than 70,000 based on the most recent  
15 Federal decennial census. The term shall not include a city that  
16 has had a receiver appointed under Chapter 7 of the act of July  
17 10, 1987 (P.L.246, No.47), known as the Municipalities Financial  
18 Recovery Act.

19 "City revitalization and improvement zone." A revitalization  
20 improvement zone comprised of parcels designated by the  
21 contracting authority that will result in sustainable economic  
22 development and job creation within a city.

23 "Contracting authority." An authority established under 53  
24 Pa.C.S. Ch. 56 (relating to municipal authorities) for the  
25 purpose of designating revitalization zones and constructing  
26 facilities or other authority established under the laws of this  
27 Commonwealth.

28 "Department." The Department of Revenue of the Commonwealth.

29 "Earned income tax." A tax or portion of a tax imposed on  
30 earned income within a neighborhood improvement zone under the

1 act of December 31, 1965 (P.L.1257, No.511), known as The Local  
2 Tax Enabling Act, which a city, or a school district contained  
3 entirely within the boundaries of or coterminous with the city,  
4 is entitled to receive.

5 "Facility." A structure to be used for commercial,  
6 exhibition, hospitality, conference, retail, community, office,  
7 recreational or mixed-use purposes. The term includes a park.

8 "Fund." A city revitalization and improvement fund  
9 established under section 1606-K.

10 "Qualified business." An entity which meets all of the  
11 following:

12 (1) Is any of the following that conducts business or  
13 provides services:

14 (i) A sole proprietorship.

15 (ii) A corporation.

16 (iii) A limited liability company.

17 (iv) A partnership.

18 (v) An association.

19 (2) Locates or partially locates in a zone.

20 (3) Meets the requirements of section 1605-K.

21 "Zone." A city revitalization and improvement zone.  
22 Section 1603-K. Approval.

23 (a) Submission.--Prior to the designation of a zone, a  
24 contracting authority shall apply to the Department of Community  
25 and Economic Development for approval of a city revitalization  
26 and improvement zone plan. The plan shall include:

27 (1) A plan to establish one or more facilities.

28 (2) An economic development plan.

29 (3) Specific information relating to a facility which  
30 will be constructed or renovated as part of the plan.

1 (4) Other information as required by the Department of  
2 Community and Economic Development.

3 (b) Approval.--The zone may be designated under section  
4 1604-K upon approval of the plan under subsection (a)(1). If the  
5 plan is not approved by the department within 180 days, the plan  
6 shall be deemed approved.

7 Section 1604-K. Facility.

8 The contracting authority may do the following:

9 (1) Designate one or more zones of not greater than 130  
10 acres in total in which a facility may be constructed or  
11 redeveloped.

12 (2) Provide for or borrow funds for the purpose of:

13 (i) improvement and development within the zone;

14 (ii) construction or improvement of a facility  
15 within the zone; or

16 (iii) redevelopment of a deteriorated facility in  
17 existence prior to January 1, 2013.

18 Section 1605-K. Qualified business.

19 (a) Qualifications.--In order to qualify under this article,  
20 a business must own or lease real property in the zone from  
21 which the business actively conducts a trade, profession or  
22 business. The qualified business must receive certification from  
23 the department that the business is located and is in the active  
24 conduct of a trade, profession or business within the zone.

25 (b) Relocation.--A business that relocates from outside the  
26 zone into the zone shall not be a qualified business unless that  
27 business either:

28 (1) increases full-time employment of the qualified  
29 business by at least 20% within the zone in the first full  
30 year of operation within the zone; or

1       (2) makes a capital investment in the property located  
2       within a zone equivalent to 20% of the gross revenues of that  
3       business in the immediately preceding calendar or fiscal  
4       year.

5 Section 1606-K. Fund.

6       (a) Establishment.--Following the designation of a zone, the  
7       contracting authority shall, within ten days of making the  
8       designation, notify the State Treasurer of the designation. Upon  
9       receipt of the notification, the State Treasurer shall establish  
10       a special fund for the benefit of the contracting authority to  
11       be known as a city revitalization and improvement fund. Interest  
12       income derived from investment of the money in a fund shall be  
13       credited by the Treasury Department to the fund.

14       (b) Certification.--

15               (1) Within 30 days of the end of each calendar year,  
16               each qualified business shall file a report with the  
17               department which complies with all of the following:

18                       (i) States each State tax, calculated in accordance  
19                       with subsection (c), which was paid by the qualified  
20                       business in the prior calendar year.

21                       (ii) Lists each State tax refund which complies with  
22                       all of the following:

23                               (A) The refund is for a tax:

24                                       (I) set forth in subsection (c); and

25                                       (II) certified as paid under subsection (c).

26                               (B) The refund was received in the prior  
27                       calendar year by the qualified business.

28                       (iii) Is in a form and manner required by the  
29                       department.

30       (2) In addition to any penalties imposed under the act

1 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
2 of 1971, for failure to timely pay State taxes, failure to  
3 file a timely and complete report under paragraph (1) shall  
4 result in the imposition of a penalty of 10% of all State  
5 taxes, calculated in accordance with subsection (c), which  
6 were payable by the qualified business in the prior calendar  
7 year.

8 (3) Any penalty imposed under this subsection shall be  
9 imposed, assessed and collected by the department under the  
10 provisions for imposing, assessing and collecting penalties  
11 under Article II of the Tax Reform Code of 1971. When the  
12 penalty is received, the money shall be transferred from the  
13 General Fund to the fund of the contracting authority that  
14 designated the zone in which the qualifying business is  
15 located.

16 (4) Within 30 days of the end of each calendar year,  
17 each qualified business shall file a report with the local  
18 taxing authority reporting all local taxes, calculated in  
19 accordance with subsection (c), which were paid by the  
20 qualified business in the prior calendar year. The report  
21 from each qualified business shall also list any local tax  
22 refunds of taxes set forth in subsection (c) received in the  
23 prior calendar year by the qualified business and any refunds  
24 related to the local taxes as calculated in accordance with  
25 subsection (c). The report shall be in a form and manner  
26 required by the department.

27 (c) Calculation.--

28 (1) Within 60 days of the end of each calendar year, the  
29 department shall certify separately for each zone the amounts  
30 of State taxes paid, less any State tax refunds received, by

1 the qualified businesses filing reports under subsection (a)  
2 to the Office of the Budget. Beginning in the first full  
3 calendar year following the designation of a zone and in each  
4 calendar year thereafter, the department shall calculate  
5 amounts of State taxes actually received by the Commonwealth  
6 from each qualified business that filed a report under  
7 subsection (b) in the prior year, and the department shall  
8 certify the amounts received to the office.

9 (2) The contracting authority shall provide good faith  
10 estimates of quarterly amounts to be calculated in a form and  
11 manner prescribed by the department.

12 (3) The department shall estimate the quarterly amounts,  
13 subject to an annual reconciliation, and shall certify the  
14 amounts to the Office of the Budget within 90 days of the end  
15 of each fiscal quarter.

16 (4) An entity collecting a local tax within the zone  
17 shall, within 30 days of the end of a fiscal quarter, submit  
18 all of the local taxes collected that are to be calculated  
19 under this subsection to the State Treasurer for transfer to  
20 the fund under subsection (e).

21 (5) The following shall be the amounts calculated:

22 (i) An amount equal to all corporate net income tax,  
23 capital stock and franchise tax, personal income tax,  
24 business privilege tax, business privilege licensing fees  
25 and earned income tax related to the ownership and  
26 operation of a facility or qualified business in the  
27 zone.

28 (ii) An amount equal to all of the following:

29 (A) All personal income tax, earned income tax  
30 and local services tax withheld from its employees by

1 a facility or qualified business in the zone.

2 (B) All personal income tax, earned income tax  
3 and local services tax withheld from the employees of  
4 any facility or qualified business in the zone.

5 (iii) An amount equal to all sales and use tax  
6 related to the operation of a facility in the zone. This  
7 subparagraph shall include sales and use tax paid by any  
8 provider of events or activities at or services to a  
9 facility, including sales and use tax paid by vendors and  
10 concessionaires and contractors at a facility.

11 (iv) An amount equal to all tax paid to the  
12 Commonwealth related to the sale of any liquor, wine or  
13 malt or brewed beverage in a facility.

14 (v) An amount equal to all personal income tax,  
15 earned income tax and local services tax withheld from  
16 personnel by a contractor or other entity involved in the  
17 construction of a facility.

18 (vi) An amount equal to all of the following:

19 (A) All corporate net income tax, capital stock  
20 and franchise tax, personal income tax, business  
21 privilege tax, business privilege licensing fees and  
22 earned income tax related to the ownership and  
23 operation of any qualified business within the zone.

24 (B) All personal income tax, earned income tax  
25 and local services tax withheld from its employees by  
26 a qualified business within the zone.

27 (C) All personal income tax, earned income tax  
28 and local services tax withheld from the employees of  
29 a qualified business that provides events, activities  
30 or services in the zone.

1           (D) All personal income tax, earned income tax  
2           and local services tax to which the Commonwealth  
3           would be entitled from performers or other  
4           participants at an event or activity in the zone.

5           (E) All sales and use tax related to the  
6           operation of a qualified business within the zone.  
7           This clause shall include sales and use tax paid by a  
8           qualified business that provides events, activities  
9           or services in the zone.

10           (F) All tax paid by a qualified business to the  
11           Commonwealth related to the sale of any liquor, wine  
12           or malt or brewed beverage within the zone.

13           (G) The amount paid a qualified business within  
14           the zone of any new tax enacted by the Commonwealth  
15           following the effective date of this section.

16           (H) All personal income tax, earned income tax  
17           and local services tax withheld from personnel by a  
18           qualified business involved in the improvement,  
19           development or construction of the zone.

20           (I) All sales and use tax paid on materials and  
21           other construction costs, directly related to the  
22           improvement, development or construction of a  
23           facility in the zone.

24           (J) An amount equal to any amusement tax paid by  
25           a facility or a qualified business operating in the  
26           zone. No political subdivision or other entity  
27           authorized to collect amusement taxes may impose or  
28           increase the rate of any tax on admissions to places  
29           of entertainment, exhibition, amusement or upon  
30           athletic events in the zone which are not in effect

1 on the date the zone is designated by the contracting  
2 authority.

3 (vii) Except for a tax levied against real property,  
4 an amount equal to any tax imposed by the Commonwealth or  
5 any of its political subdivisions on a qualified business  
6 engaged in an activity within a zone or directly or  
7 indirectly on any sale or purchase of goods or services  
8 if the point of sale or purchase is within the zone.

9 (d) Income apportionment.--A business with locations inside  
10 and outside the zone shall apportion taxes attributable to the  
11 location within the zone or calculate the percentage of tax  
12 payments attributable to the location within the zone.

13 (e) Transfers.--

14 (1) Within ten days of receiving notification under  
15 subsection (a), the Secretary of the Budget shall direct the  
16 State Treasurer to, notwithstanding any other law, transfer  
17 the amounts calculated under subsection (c) from the General  
18 Fund to each fund of the contracting authority. Beginning in  
19 the second calendar year following the designation of a zone  
20 and in each year thereafter, the amounts certified by the  
21 department to the State Treasurer and the amounts transferred  
22 by the State Treasurer to the fund of each contracting  
23 authority shall be determined as follows:

24 (i) Add amounts certified by the department under  
25 subsection (b) for the prior calendar year.

26 (ii) Subtract from the sum under subparagraph (i)  
27 any State tax refunds paid as certified by the department  
28 under subsection (b).

29 (iii) Add to the difference under subparagraph (ii)  
30 any amounts certified under subsection (b) with respect

1 to the second prior calendar year.

2 (iv) Subtract from the sum under subparagraph (iii)  
3 any amounts certified under subsection (b) which are less  
4 than the amounts previously certified under subsection  
5 (b) with respect to the second prior calendar year.

6 (2) The State Treasurer shall provide quarterly payments  
7 to the contracting authority until the bonds issued or the  
8 other debt incurred to finance the improvement and  
9 development of the zone and the construction of a contracted  
10 facility are retired. The payment in each quarter shall be  
11 equal to the balance of the fund on the date of the last day  
12 of the prior calendar quarter.

13 (f) Restriction on use of funds.--Funds transferred under  
14 subsection (e):

15 (1) May only be utilized for:

16 (i) payment of debt service on bonds issued,  
17 refinancing loans to repay bonds or for payment of other  
18 debt incurred, for the improvement and development of all  
19 or any part of the zone. Payments may be made directly or  
20 indirectly through a multitiered ownership structure or  
21 other structure authorized by the contracting authority  
22 to facilitate financing;

23 (ii) construction of all or a part of a facility;

24 (iii) payment of debt service on bonds issued, or  
25 payment of other debt incurred, for the development of a  
26 facility in existence prior to January 1, 2013; or

27 (iv) replenishment of amounts in debt service  
28 reserve funds established to pay debt service on bonds.

29 (2) May not be utilized for purposes of renovating or  
30 repairing a facility, except for capital maintenance,

1 improvement projects and furniture, fixtures and equipment  
2 reserve funds.

3 Section 1607-K. Keystone Opportunity Zone.

4 Within 30 days of the effective date of this section, the  
5 contracting authority shall apply to the department to decertify  
6 and remove the designation of all or part of any Keystone  
7 Opportunity Zone that is coterminous with the city  
8 revitalization and improvement zone in accordance with section  
9 309 of the act of October 6, 1998 (P.L.705, No.92), known as the  
10 Keystone Opportunity Zone, Keystone Opportunity Expansion Zone  
11 and Keystone Opportunity Improvement Zone Act. The department  
12 shall act on the application within 30 days.

13 Section 1608-K. Duration.

14 The zone shall be in effect for a period equal to the length  
15 of time for the repayment of debt incurred for the zone,  
16 including the time of bonds initially issued.

17 Section 1609-K. Commonwealth pledges.

18 (a) Pledge.--If and to the extent that the contracting  
19 authority pledges amounts required to be transferred to the fund  
20 of the contracting authority under section 1605-K for the  
21 payment of bonds issued by the contracting authority, until all  
22 bonds secured by the pledge of the contracting authority,  
23 together with the interest on the bonds, are fully paid or  
24 provided for, the Commonwealth pledges to and agrees with any  
25 person, firm, corporation or government agency, whether in this  
26 Commonwealth or elsewhere, and to and with any Federal agency  
27 subscribing to or acquiring the bonds issued by the contracting  
28 authority that the Commonwealth itself will not, nor will it  
29 authorize any government entity to do any of the following:

30 (1) Abolish or reduce the size of the zone.

1           (2) Amend or repeal section 1606-K(b), (c) or (d).

2           (3) Limit or alter the rights vested in the contracting  
3 authority in a manner inconsistent with the obligations of  
4 the contracting authority with respect to the bonds issued by  
5 the contracting authority.

6           (4) Impair revenues to be paid under this article to the  
7 contracting authority necessary to pay debt service on bonds.

8           (b) Limitation.--Nothing in this section shall limit the  
9 authority of the Commonwealth or any government entity to change  
10 the rate, tax bases or any subject of any specific tax or to  
11 repeal or enact any tax.

12 Section 1610-K. Regulations.

13           The Department of Community and Economic Development and the  
14 department shall develop regulations necessary to implement this  
15 article. The Department of Community and Economic Development  
16 shall include regulations to require annual reports relating to  
17 the development of the zone.

18           Section 2. This act shall take effect immediately.