

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2768 Session of 2022

INTRODUCED BY SCHLOSSBERG, FREEMAN, A. DAVIS, DELLOSO, GUENST, HILL-EVANS, HOHENSTEIN, HOWARD, KRAJEWSKI, MADDEN, McNEILL, SOLOMON, KINKEAD AND CIRESI, AUGUST 22, 2022

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, AUGUST 22, 2022

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled  
 2 "An act to empower cities of the second class A, and third  
 3 class, boroughs, incorporated towns, townships of the first  
 4 and second classes including those within a county of the  
 5 second class and counties of the second through eighth  
 6 classes, individually or jointly, to plan their development  
 7 and to govern the same by zoning, subdivision and land  
 8 development ordinances, planned residential development and  
 9 other ordinances, by official maps, by the reservation of  
 10 certain land for future public purpose and by the acquisition  
 11 of such land; to promote the conservation of energy through  
 12 the use of planning practices and to promote the effective  
 13 utilization of renewable energy sources; providing for the  
 14 establishment of planning commissions, planning departments,  
 15 planning committees and zoning hearing boards, authorizing  
 16 them to charge fees, make inspections and hold public  
 17 hearings; providing for mediation; providing for transferable  
 18 development rights; providing for appropriations, appeals to  
 19 courts and penalties for violations; and repealing acts and  
 20 parts of acts," providing for developments of regional  
 21 significance and impact; and, in zoning hearing board and  
 22 other administrative proceedings, further providing for  
 23 jurisdiction.

24 The General Assembly of the Commonwealth of Pennsylvania

25 hereby enacts as follows:

26 Section 1. The act of July 31, 1968 (P.L.805, No.247), known  
 27 as the Pennsylvania Municipalities Planning Code, is amended by  
 28 adding an article to read:

1 ARTICLE VI-A

2 Developments of Regional Significance and Impact

3 Section 601-A. Purposes.

4 The purposes of this article are:

5 (1) To authorize a comprehensive and coordinated review  
6 by a municipality regarding a proposed development of  
7 regional significance and impact.

8 (2) To evaluate and mitigate potentially adverse impacts  
9 on community services, the economy, the environment,  
10 community character, transportation and infrastructure as a  
11 result of a development of regional significance and impact.

12 (3) To develop cost-effective and reasonable  
13 accountability measures regarding a development of regional  
14 significance and impact.

15 (4) To encourage timely, well-communicated and well-  
16 coordinated procedures to consider and authorize a  
17 development of regional significance and impact.

18 (5) To encourage planning consistent with section 27 of  
19 Article I of the Constitution of Pennsylvania.

20 Section 602-A. Definitions.

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

24 "Department." The Department of Transportation of the  
25 Commonwealth.

26 "Earth disturbance activity." A construction or other human  
27 activity, done for the purpose of land development, that  
28 disturbs the surface of land.

29 "Host municipality." A municipality in which a proposed land  
30 development will be located.

1 "Intermodal terminal." An area or building where the  
2 transportation mode for freight or passengers changes.

3 "Petroleum storage facility." A facility used to store  
4 gasoline, motor fuel or other petroleum products with a capacity  
5 of more than:

6 (1) fifty thousand barrels, if the facility is within  
7 1,000 feet of a water supply; or

8 (2) two hundred thousand barrels.

9 "Quarry." An open excavation used for extracting minerals,  
10 rock, stone, sand, gravel or building materials.

11 "Truck stop facility." An establishment that provides fuel,  
12 parking and related goods and services to primarily support  
13 truck transportation with at least:

14 (1) six diesel pumps;

15 (2) five acres of truck parking; or

16 (3) twenty truck parking spaces.

17 "Waste handling facility." A structure or system designed  
18 for the collection, processing or disposal of solid waste,  
19 including hazardous wastes. The term includes a transfer  
20 station, processing plant, recycling plant and disposal system.

21 Section 603-A. Applicability of article.

22 Unless this article specifically provides to the contrary,  
23 this article supplements this act and does not supersede any  
24 other provision of this act or other law.

25 Section 604-A. Scope.

26 This article shall not apply to a person or legal entity that  
27 is regulated by any of the following acts:

28 (1) The act of May 31, 1945 (P.L.1198, No.418), known as  
29 the Surface Mining Conservation and Reclamation Act.

30 (2) The act of April 27, 1966 (1st Sp.Sess., P.L.31,

1 No.1), known as The Bituminous Mine Subsidence and Land  
2 Conservation Act.

3 (3) The act of September 24, 1968 (P.L.1040, No.318),  
4 known as the Coal Refuse Disposal Control Act.

5 (4) The act of December 18, 1984 (P.L.1069, No.214),  
6 known as the Coal and Gas Resource Coordination Act.

7 (5) The act of December 19, 1984 (P.L.1093, No.219),  
8 known as the Noncoal Surface Mining Conservation and  
9 Reclamation Act.

10 (6) 58 Pa.C.S. Ch. 32 (relating to development).

11 Section 605-A. Compliance.

12 A municipal, multimunicipal or county comprehensive plan  
13 shall include provisions consistent with the provisions  
14 contained in this article. If a host municipality is not  
15 governed by a municipal or multimunicipal comprehensive plan,  
16 the provisions of the county comprehensive plan in which the  
17 host municipality is located shall govern and shall be  
18 consistent with respect to the provisions contained in this  
19 article.

20 Section 606-A. Impact analysis.

21 (a) General rule.--If a person submits to a host  
22 municipality an application for land development that involves a  
23 development specified in this section, the applicant shall also  
24 submit an impact analysis under section 607-A to the host  
25 municipality.

26 (b) Types of development.--An impact analysis under section  
27 607-A is required if a proposed land development consists of any  
28 of the following:

29 (1) an airport;

30 (2) an intermodal terminal;

1           (3) a petroleum storage facility;

2           (4) a waste handling facility or the cumulative  
3 expansion of an existing waste handling facility that occurs  
4 during any three-year period and creates a significant  
5 degradation in the level of service with respect to traffic  
6 impact, as determined by regulations established by the  
7 department;

8           (5) a quarry or the cumulative expansion of an existing  
9 quarry that occurs during any three-year period and creates a  
10 significant degradation in the level of service with respect  
11 to traffic impact, as determined by regulations established  
12 by the department;

13           (6) a truck stop facility that creates a significant  
14 degradation in the level of service with respect to traffic  
15 impact, as determined by regulations established by the  
16 department;

17           (7) a land development in a watershed that is unstudied  
18 under the act of October 4, 1978 (P.L.864, No.167), known as  
19 the Storm Water Management Act, and involves at least 100  
20 acres of contributory watershed that is upstream from the  
21 land development and at least 25 acres in total land area of  
22 earth disturbance activity associated with the land  
23 development;

24           (8) a land development in which the permittees of the  
25 receiving sewerage facilities for the development have  
26 submitted information that documents that the existing  
27 collection, conveyance and treatment system has an existing  
28 hydraulic or organic overload or five-year projected  
29 overload; or

30           (9) a land development in which the permittees of the

1 collection, conveyance and treatment system receiving  
2 facilities have certified to the host municipality that there  
3 is not capacity to receive and treat sewage flows from the  
4 development or that the additional wasteload from the  
5 development will create a hydraulic or organic overload or  
6 five-year projected overload.

7 (c) Municipalities with population of 10,000 or more.--An  
8 impact analysis under section 607-A is required if a proposed  
9 land development is within a host municipality with a population  
10 of 10,000 or more, as determined by the most current decennial  
11 census, and will result in:

12 (1) the generation of 3,000 or more average daily trips  
13 or 1,500 vehicles per day; or

14 (2) a significant impact on highway safety or traffic  
15 flow, as determined by standards established by the  
16 department.

17 (d) Municipalities with population of less than 10,000.--An  
18 impact analysis under section 607-A is required if a proposed  
19 land development is within a host municipality with a population  
20 of less than 10,000, as determined by the most current decennial  
21 census, and will result in:

22 (1) a significant impact on highway safety or traffic  
23 flow, as determined by standards established by the  
24 department;

25 (2) the generation of 3,000 or more average daily trips  
26 or 1,500 vehicles per day;

27 (3) the generation of 100 or more vehicle trips entering  
28 or exiting the development during any one-hour time period of  
29 any day of the week; or

30 (4) for an existing site being redeveloped, the

1 generation of 100 or more additional vehicle trips entering  
2 or exiting the development during any one-hour time period of  
3 any day of the week.

4 (e) Comprehensive plan.--A host municipality may increase or  
5 decrease a numerical threshold in subsection (c) or (d) to apply  
6 to the municipality if:

7 (1) a revised numerical threshold is adopted in a county  
8 plan or multimunicipal comprehensive plan under Article XI;  
9 and

10 (2) the host municipality has:

11 (i) adopted the county plan or multimunicipal  
12 comprehensive plan and conformed its local plans and  
13 ordinances to the county plan or multimunicipal  
14 comprehensive plan by implementing a cooperative  
15 agreement and adopting appropriate resolutions and  
16 ordinances; or

17 (ii) entered into an implementation agreement to  
18 carry out the county plan or multimunicipal comprehensive  
19 plan.

20 Section 607-A. Contents of impact analysis.

21 (a) Submission.--An applicant shall submit an impact  
22 analysis to the host municipality as required by section 606-A.

23 (b) Costs.--An applicant shall be responsible for all costs  
24 involving the preparation and review of the impact analysis.

25 (c) Contents.--An impact analysis under this section shall  
26 analyze the effect of the proposed land development on the host  
27 municipality and other affected municipalities and shall address  
28 all of the following:

29 (1) The financial impact regarding any expanded  
30 emergency and infrastructure services, including services

1 regarding police, fire, ambulance, medical care, sewer,  
2 water, transportation and utilities.

3 (2) The disturbance of agricultural areas, forested  
4 areas and greenfields.

5 (3) The effect on natural resources, historic resources  
6 and tourism, including parks, open spaces, historic  
7 structures, ethnic heritage sites, the character of  
8 neighborhoods and areas, historic landscapes, scenic views  
9 and wildlife habitats.

10 (4) The effect on residential housing opportunities,  
11 including property values and the potential number and  
12 character of new housing units.

13 (5) The redevelopment of brownfields or greyfields.

14 (6) The likelihood that the proposed land development  
15 will spur other land development in the area.

16 (7) Subject to traffic impact guidelines developed by  
17 the department, the effect on transportation and  
18 transportation infrastructure. Consideration shall be given  
19 to trip generation, trip distribution and area  
20 municipalities.

21 (8) Any other matter that is required by an applicable  
22 provision in the municipal or multimunicipal ordinance that  
23 governs the host municipality or that is covered by an  
24 applicable provision in the municipal, multimunicipal or  
25 county comprehensive plan for the host municipality.

26 Section 608-A. Classification as development of regional  
27 significance and impact.

28 (a) Notice of public hearing.--The following shall apply to  
29 a notice of public hearing:

30 (1) In addition to any other notice requirement under

1 this act, a host municipality shall provide timely written  
2 notice of the public hearing under this section to:

3 (i) each contiguous municipality; and

4 (ii) each municipality that is potentially impacted  
5 by the proposed land development and identified in the  
6 impact analysis under section 607-A.

7 (2) The notice shall specify that the host municipality  
8 is considering whether to classify the proposed land  
9 development as a development of regional significance and  
10 impact.

11 (b) Public hearing.--The following shall apply to a public  
12 hearing:

13 (1) A host municipality shall conduct a public hearing  
14 to review the impact analysis under section 607-A and  
15 determine whether the proposed land development is a  
16 development of regional significance and impact.

17 (2) A representative from a municipality receiving  
18 notice under subsection (a) may provide public comment to the  
19 host municipality regarding the issue of whether to classify  
20 the proposed land development as a development of regional  
21 significance and impact.

22 (c) Determination.--The following shall apply to a process  
23 by which a host municipality determines whether to classify a  
24 proposed land development as a development of regional  
25 significance and impact:

26 (1) The host municipality shall specifically consider  
27 the potential direct impacts on other municipalities.

28 (2) The host municipality shall provide specific reasons  
29 supporting its determination.

30 (d) Effect.--Once a proposed land development is classified

1 as a development of regional significance and impact, the  
2 proposed land development shall be subject to the provisions of  
3 this article.

4 Section 609-A. Mitigation plan.

5 (a) Submission.--An applicant shall submit to the host  
6 municipality a written mitigation plan that explains the nature  
7 and extent of mitigation efforts to address any known or  
8 potential harm or negative effect cited by the host municipality  
9 in the classification of the proposed land development as a  
10 development of regional significance and impact under section  
11 608-A.

12 (b) Professional review.--An applicant shall demonstrate  
13 that the mitigation plan submitted under this section has been  
14 reviewed and written comments have been prepared for the host  
15 municipality regarding the effect of the proposed mitigation  
16 measures on the public health, safety and welfare by:

17 (1) A traffic engineer.

18 (2) An individual who is:

19 (i) licensed in this Commonwealth to perform  
20 services or activities related to the provisions of this  
21 article; and

22 (ii) qualified by training and experience to perform  
23 such services or activities with technical competence.

24 (c) Costs.--An applicant shall be responsible for all costs  
25 involving the preparation and review of the mitigation plan.

26 Section 610-A. Coordinated and expedited review.

27 (a) Request.--An applicant may request a coordinated and  
28 expedited review of any aspect of a proposed development of  
29 regional significance and impact by the department, the  
30 Department of Environmental Protection or other governmental

1 entity whose approval is required for the proposed development.

2 (b) Governmental cooperation.--The department, the  
3 Department of Environmental Protection or other governmental  
4 entity whose approval is required for the proposed land  
5 development shall ensure adequate communication and cooperation  
6 by and between the governmental entities.

7 (c) Submission of information.--In consultation with the  
8 department, the Department of Environmental Protection or other  
9 governmental entity whose approval is required for the proposed  
10 land development, an applicant shall submit to each governmental  
11 entity the necessary information for review of the proposed land  
12 development.

13 (d) Report.--Within 45 days after submission of all the  
14 necessary information under subsection (c) for a coordinated and  
15 expedited review, a governmental entity receiving the  
16 information shall prepare a written report of findings, comments  
17 and recommendations regarding the proposed land development and  
18 send the report to the applicant and host municipality.

19 (e) Discretion of governmental entity.--The following shall  
20 apply to the discretion of a governmental entity under this  
21 section:

22 (1) Nothing in this section shall be construed to  
23 require the department, the Department of Environmental  
24 Protection or other governmental entity whose approval is  
25 required for the proposed land development to conduct a  
26 coordinated and expedited review.

27 (2) Upon the written consent of the applicant, the  
28 department, the Department of Environmental Protection or  
29 other governmental entity whose approval is required for the  
30 proposed land development may extend the time period under

1 subsection (d).

2 (f) Fees.--The following shall apply to fees under this  
3 section:

4 (1) An applicant shall be responsible for all fees  
5 involving coordinated and expedited review of a proposed  
6 development of regional significance and impact under this  
7 section.

8 (2) Unless the applicant agrees otherwise, if the  
9 department, the Department of Environmental Protection or  
10 other governmental entity whose approval is required for the  
11 proposed land development cannot complete the coordinated and  
12 expedited review and submit the report within the time period  
13 under subsection (d), the governmental entity shall return to  
14 the applicant the full amount of the fee collected under this  
15 section.

16 Section 611-A. Municipal review and determination.

17 (a) Hearing required.--The host municipality shall conduct a  
18 hearing to review a proposed development of regional  
19 significance and impact.

20 (b) Considerations.--At the hearing the host municipality  
21 shall consider all of the following:

22 (1) Subject to subsection (c), testimony and other  
23 information from:

24 (i) The department.

25 (ii) The Department of Environmental Protection.

26 (iii) Other governmental entities whose approval are  
27 required for the proposed land development.

28 (iv) The county in which the host municipality is  
29 located.

30 (v) Contiguous municipalities.

1           (vi) Municipalities that are potentially impacted by  
2 the proposed land development.

3           (vii) Area school districts potentially impacted by  
4 the proposed land development.

5           (viii) Concerned individuals, municipal and regional  
6 planners, engineers, persons potentially impacted by the  
7 proposed land development and other persons as determined  
8 by the host municipality.

9           (2) The impact analysis under section 607-A and other  
10 reports concerning the proposed land development.

11           (3) The mitigation plan under section 609-A.

12           (4) Whether the proposed land development is consistent  
13 with an applicable provision in:

14           (i) a municipal, multimunicipal or county  
15 comprehensive plan; and

16           (ii) a municipal or multimunicipal ordinance or  
17 regulation.

18           (5) The totality of impacts regarding the proposed land  
19 development and the cumulative effect of development on the  
20 host municipality and affected municipalities.

21           (c) Testimony.--The host municipality may limit the  
22 testimony to be presented at the hearing if the testimony is  
23 repetitive.

24           (d) Determination.--Based on the testimony and other  
25 information received with respect to a proposed development of  
26 regional significance and impact, the host municipality may:

27           (1) Approve the proposed development.

28           (2) Approve the proposed development with conditions  
29 attached. A condition shall be reasonable and necessary to  
30 mitigate any impact or additional impact attributable to the

1 proposed development and shall bear a direct relationship to  
2 the burden being imposed by the proposed development. A  
3 condition may not involve any of the following:

4 (i) The correction of an existing deficiency in the  
5 environment or public infrastructure.

6 (ii) A contribution or payment for the acquisition  
7 of land or expansion of public facilities, unless the  
8 host municipality's municipal ordinance contains the same  
9 or a similar condition for development that is not  
10 subject to this article.

11 (iii) The contribution or payment associated with  
12 the cost of a municipal improvement that exceeds the  
13 proposed development's proportionate share of the cost  
14 established under this article or any applicable  
15 provision of this act or other law or ordinance. By  
16 accepting the proposed development's proportionate share,  
17 the host municipality assures that the municipal  
18 improvement will be made without any additional  
19 contribution or payment from the applicant for that  
20 purpose.

21 (3) Disapprove the proposed development.

22 (e) Reasons.--The host municipality shall provide specific  
23 reasons supporting its determination under subsection (d).

24 Section 612-A. Additional standards and criteria.

25 Nothing in this article shall be construed to restrict a  
26 municipality from establishing additional standards and criteria  
27 under this article, in conformity with this act, including, but  
28 not limited to:

29 (1) thresholds under subsection 606-A;

30 (2) the contents of an impact analysis under section

1 607-A(c);

2 (3) the classification of a development of regional  
3 significance and impact under section 608-A; and

4 (4) considerations under section 611-A(b).

5 Section 613-A. Financial considerations.

6 (a) Applicant costs.--The host municipality or the county in  
7 which the host municipality is located may provide financial  
8 incentives to an applicant to mitigate the costs regarding an  
9 impact analysis, a mitigation plan or a coordinated and  
10 expedited review of a proposed development of regional  
11 significance and impact.

12 (b) Tax sharing.--The host municipality shall develop a tax  
13 sharing plan for contiguous municipalities adversely affected by  
14 an approved development of regional significance and impact as a  
15 result of additional expenses incurred for police, fire, medical  
16 services, road maintenance and infrastructure.

17 (c) Professional review.--If a host municipality lacks  
18 capacity regarding the professional review of the proposed land  
19 development plans, the impact analysis or the mitigation plan,  
20 the county in which the host municipality is located shall  
21 determine whether and the extent to which the county can assist  
22 the host municipality with the professional review.

23 Section 614-A. Notice generally.

24 Except as otherwise provided in this article, this act shall  
25 govern notice of a public hearing, hearing or determination.  
26 Written notice shall be given to the applicant, an owner of  
27 property that is contiguous to the proposed land development and  
28 other person requesting a copy of the notice. A municipality  
29 shall provide, as appropriate, timely written notification to a  
30 contiguous municipality, municipality or area school district

1 potentially impacted by the proposed land development.

2 Section 615-A. Appeals.

3 (a) Jurisdiction.--An appeal of a determination under  
4 section 611-A must be filed with the court of common pleas of  
5 the county in which the host municipality which made the  
6 determination is located.

7 (b) Parties.--An appeal under this section shall be limited  
8 to those parties that appeared before the host municipality at  
9 the hearing.

10 (c) Review.--The review of the determination under section  
11 611-A shall be governed by Article X-A.

12 (d) Mediation.--Parties to a contested case may use  
13 mediation as an aid to a formal appeal, in which case the  
14 provisions of section 908.1 shall govern.

15 Section 2. Section 909.1(b) of the act is amended by adding  
16 a paragraph to read:

17 Section 909.1. Jurisdiction.--\* \* \*

18 (b) The governing body or, except as to clauses (3), (4) and  
19 (5), the planning agency, if designated, shall have exclusive  
20 jurisdiction to hear and render final adjudications in the  
21 following matters:

22 \* \* \*

23 (8) Applications for a proposed land development under  
24 Article VI-A.

25 Section 3. This act shall take effect in six months.