

No. 1986-75

AN ACT

HB 1812

Amending the act of July 9, 1985 (P.L.187, No.47), entitled "An act providing for transportation development projects by certain municipalities and municipal authorities," further providing for transportation development districts; clarifying provisions relating to the financing of a transportation development district project; adding provisions facilitating additional public involvement in a municipality's decision to establish a transportation development district; and further providing for transportation planning.

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

Section 1. The act of July 9, 1985 (P.L.187, No.47), known as the Transportation Partnership Act, is amended by adding a section to read:

Section 1.1. Legislative findings, purpose and intent.

(a) *Findings.—The General Assembly encourages and supports economic growth and development throughout Pennsylvania. However, the General Assembly recognizes that, in many instances, transportation facilities and services are either not available or no longer adequate to support the industrial, commercial and residential growth and development of a specific area. With Federal aid on the decline, the available State and local funding capabilities cannot always keep up with the transportation needs of an area. This shortfall necessitates the creation of new means of financing transportation projects.*

(b) *Purpose.—The purpose of this act is to enable municipalities to cooperate with one another and with the private sector to provide funding for transportation projects in areas where economic growth and development has made the transportation facilities and services inadequate.*

(c) *Intent.—Since these transportation facilities and services will benefit existing as well as newly developed properties within the designated district, it is the intent of the General Assembly that each benefited property within the district, existing and newly developed property, be assessed a portion of the cost of the transportation project.*

Section 2. Sections 2, 3 and 4 of the act are amended to read:

Section 2. Transportation development districts.

(a) Establishment of districts.—~~[Except in counties of the second class, the]~~ **The** governing body of any municipality or municipal authority, acting singly or in cooperation with one or more other municipalities or municipal authorities, may establish within the boundaries of the municipality or municipalities, or in the case of a municipal authority within the boundaries of the municipality or municipalities that organized the municipal authority, ~~[an]~~ **a specific** area or areas designated as a transportation development district for the purpose of planning, financing, acquiring, developing, ~~[improving]~~ **constructing** and operating transportation facilities or transportation

services within the district, *provided that the proposed projects expand or improve existing transportation facilities or services*. However, a municipal authority may not designate or join in the designation of an area or areas as a transportation development district without the express approval of the governing body or bodies of the municipality or municipalities that organized that municipal authority. *An area shall not be designated as a transportation development district for the purpose of maintaining or repairing an existing facility. All properties having a substantial relationship to the proposed transportation facility or service shall be considered benefited by the facility or service and shall be included in the transportation development district.*

(b) Facility projects.—Transportation facility projects which may be undertaken within a district shall include any system of public highway or passenger transportation, including, but not limited to, local streets, roads, sidewalks, alleys, passageways, traffic-control systems, structures, roadbeds, railroads, buses, trolleys, subways and other equipment for public passenger transportation; guideways, elevated structures, buildings, stations, terminals, docks, shelters, waterways, ferryboats, airports and parking areas for use in connection with any of the foregoing; tunnels, systems for connecting transportation routes or corridors, and rights-of-way therefor; communication systems, equipment, furnishings, paving or any other materials required for any of the foregoing; or any fractional or undivided coownership interest in any one or combination of any of the foregoing that may be deemed by the municipality or municipal authority to be necessary and desirable, *provided that a facility project may not include the maintenance or repair of existing facilities.*

(c) [Services] *Service projects*.—Transportation [services] *service projects* which may be [provided] *undertaken* within a district shall include any system of public passenger transportation by any mode and the salaries and costs associated therewith, the provision of any system of public highway transportation and the salaries and costs associated therewith, and any method by which a municipality or municipal authority provides, plans for, implements, undertakes[, maintains, preserves] or otherwise makes available to the public transportation facilities and any method by which a municipality or municipal authority operates, provides, maintains or holds out for the public transportation benefits under the provisions of this act.

(d) Governing body.—The governing body of a municipality or municipal authority designating a transportation development district may exercise all powers otherwise granted by law to such municipality or municipal authority in order to plan, finance, develop, improve or operate any transportation facilities or services, including, but not limited to, the appropriation and expenditure of funds, and the acquisition, by gift, purchase or eminent domain, of land, real property or rights-of-way needed for the purpose of transportation facilities or services within the district.

Section 3. Financing of transportation development.

(a) In general.—The governing body of any municipality or, in the case of paragraphs (4) and (5), any municipal authority which has designated an area as a transportation development district may finance a transportation facility or transportation service within such district by:

(1) Imposing [an] *a fair and reasonable* assessment upon business property located within the district subject to the limitations of and pursuant to the procedures and requirements of sections 2(2) through (5), 3 and 4 of the act of November 30, 1967 (P.L.658, No.305), known as the Business Improvement District Act of 1967. However, if the assessment imposed is authorized to be paid in installments, the installments need not be equal. Also, the property on which improvements are to be made need not be acquired if the improvements will be in a right-of-way.

(2) Imposing [an] *a fair and reasonable* assessment on each benefited property within the *specific* district using a formula adopted by the governing body of the municipality based upon actual or projected usage *by each property within the district* of the transportation facilities or services to be financed by [the] *such* district. *There shall be no exception, exclusion or preference granted to any property.*

(3) Imposing any tax otherwise permitted by law, but restricting such tax to subjects of taxation located within a transportation development district, and restricting the receipts of such tax to the financing of such transportation facility or service; *provided, however, that where the transportation district is not coterminous with the municipal boundaries, such transportation districts must be coterminous or solely within a "deteriorated area" as defined by section 4(a) of the act of December 1, 1977 (P.L.237, No.76), known as the Local Economic Revitalization Tax Assistance Act.*

(4) Issuing notes and bonds and entering into leases, guarantees and subsidy contracts pursuant to the provisions of the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, or, in the case of a municipal authority, pursuant to the provisions of the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945.

(5) Accepting grants, gifts and donations.

(b) Municipal authority.—A municipal authority may not impose an assessment under paragraph (1) or (2) of subsection (a) without the express approval of the governing body or bodies of the municipality or municipalities in which the district is located, as provided in section 4B(w) of the Municipality Authorities Act of 1945, and a municipal authority may not impose any tax pursuant to subsection (a)(3). However, a municipality may impose a tax pursuant to subsection (a)(3) to assist a municipal authority in financing a transportation facility or service in a transportation development district if the district was designated as such by the municipal authority with the approval of the municipality as provided for in section 2(a).

(c) Claims to secure assessments.—Claims to secure the assessments imposed pursuant to this section shall be entered in the office of the prothonotary of the county at the same time and in the same form and shall be collected in the same manner as municipal claims are filed and collected, subject to the provisions of section 4(c) of the Business Improvement District Act of 1967. The resolution or ordinance authorizing an assessment imposed pursuant to this section may limit the ability of a benefited property owner to prepay scheduled installments of such assessments.

(d) Limitations.—

(1) Assessments under paragraph (1) or (2) of subsection (a) shall be used only for new or improved transportation facilities or services.

(2) The proceeds from financing activities under subsection (a) shall not exceed the total costs identified in the multiyear transportation improvement program and financial plan required by section 4, except:

(i) to cover unanticipated cost increases not exceeding 10% on a facility or services basis; or

(ii) in cases where a project revision results in a cost increase, after public hearing thereon as set forth in subsection (e) and the passage of an ordinance revising the project or the multiyear plan and financial plan to reflect such increase.

(e) Public hearings.—Public hearings shall be required before passage of the enabling ordinance. At such public hearings any interested party may be heard. Notice of such hearings shall be advertised at least 15 days prior thereto in a newspaper circulating in such municipalities. Said ordinance shall specify the transportation project, the transportation development district or districts related thereto, with respective costs, to be undertaken. “Costs of any improvement” or “total cost of improvements” as used in this act shall include, but not be limited to, the transportation project, engineering, architectural, attorney or other consulting fees, financing costs and all other costs necessary and incidental to the completion of the improvement. Said ordinance shall not become effective if, before the expiration of 45 days after its enactment, property owners of the proposed district whose property valuation as assessed for taxable purposes shall amount to more than 50% of the total property valuation of the district shall sign and file, in the office of the prothonotary of the court of common pleas of the county in which the district is located, a written protest against said ordinance.

(f) Notice to property owners.—At least 15 days prior to the first notice of the public hearing as required by subsection (e), the municipality or authority shall provide a written notice to the owners of all property in the district setting forth: the total cost of the project proposed, the total amount to be assessed in the district, clear and specific information from which the property owner can clearly understand the amount of assessment to be imposed on the landowner’s property and an explanation of the right to object and the requirements to prevent the ordinance from becoming effective pursuant to subsection (e). Written notice shall be deemed given when sent by first class mail, postage prepaid, to the person and address listed in the county real property assessment records. No assessment shall be invalid on account of failure of a person to receive written notice.

(g) Limitation on use of funds.—No funds obtained under this section shall be used for any purpose other than financing the transportation project for which said funds were initially raised.

Section 4. Transportation planning.

(a) Study.—Municipalities or municipal authorities establishing a district shall undertake or commission the undertaking of a comprehensive study to determine the program of projects to be financed within the district. The

analysis of projects shall conform with Federal, State and regional standards for integrated transportation planning and programming. *The study shall identify the beneficiaries of all projects in the transportation improvement program and include an analysis of cost allocation among beneficiaries prorated according to benefits to be received.*

(b) Multiyear program.—Municipalities or municipal authorities establishing a district shall develop a multiyear transportation improvement program *and financial plan. The multiyear transportation improvement program shall [identifying] identify priorities and provide a schedule* for transportation facilities to be constructed [or reconstructed] or transportation services to be offered. *The financial plan shall include the total and constituent cost of the program of projects and all sources of funding.* The program must be submitted to the appropriate [county or] municipal, *county and regional* planning [commission or] commissions for approval. *The commissions shall approve or reject the program within 60 days of submission.*

(c) [Countywide plan] *County and regional programs.*—Municipalities or municipal authorities establishing transportation development districts shall cooperate in the formulation of a countywide [plan] *transportation improvement program* of any [programs] *projects* affecting the State highway system. The [plan] *countywide program* shall be submitted to the regional planning commission for [consideration of] *review, approval and consolidation* into the regional transportation plan and program. Where no regional planning commission exists, such plans and programs shall be submitted directly to the Department of Transportation for consideration for consolidation into the Commonwealth's 12-year transportation plan. *The regional planning commission or, if appropriate, the department shall reject or approve the program within 60 days of submission.*

(d) Department of Transportation.—An adopted [plan] *countywide or regional program* shall be presented to the Department of Transportation for [consideration for] *review, approval and consolidation* into the Commonwealth's 12-year transportation program. *The department shall reject or approve the program within 100 days of submission.*

(e) Financing activities.—No financing activities under section 3 shall take place until a program of projects for the ensuing year (or group of years) has been adopted and all planning activities *and approvals* for the project required by the section have been completed.

Section 3. This act shall take effect immediately. If, prior to the effective date of this amendatory act, notice was given under section 3 of the act of July 9, 1985 (P.L.187, No.47), known as the Transportation Partnership Act, pursuant to the requirements of the act of November 30, 1967 (P.L.658, No.305), known as the Business Improvement District Act of 1967, the notice given shall be considered as being in compliance with this amendatory act.

APPROVED—The 2nd day of July, A. D. 1986.

DICK THORNBURGH