

No. 2013-77

AN ACT

HB 493

Amending the act of February 9, 1999 (P.L.1, No.1), entitled "An act providing for borrowing for capital facilities; conferring powers and duties on various administrative agencies and officers; making appropriations; and making repeals," in capital facilities: further providing for definitions and for legislative procedures; providing for procedures for capital budget and for capital project itemization bill; and further providing for reports related to redevelopment assistance capital projects and for appropriations and limitations on projects; providing for review of proposals; and further providing for funding and administration of projects.

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

Section 1. The definitions of "capital project" and "redevelopment assistance capital project" in section 302 of the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act, amended July 4, 2004 (P.L.516, No.67) and December 22, 2005 (P.L.454, No.87), are amended and the section is amended by adding definitions to read:
Section 302. Definitions.

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

* * *

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

- (1) A redevelopment authority.***
- (2) An industrial development authority.***
- (3) A general purpose unit of local government.***
- (4) A local development district that has an agreement with a general purpose unit of local government under which the unit assumes ultimate responsibility for debt incurred to obtain the non-State financial participation.***
- (5) A public authority established pursuant to the laws of this Commonwealth.***
- (6) An industrial development agency:***
 - (i) which has been certified as an industrial development agency by the Pennsylvania Industrial Development Authority Board under the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act; and***
 - (ii) which is itself or which is acting through a wholly owned subsidiary that is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).***

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

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

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

(ii) land or rights in land; or

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

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

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

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

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

* * *

"Community asset project." A project which provides significant benefit or improvement to a community. The term includes a cultural, recreational and historical project and any other project of civic significance.

* * *

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

* * *

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

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

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

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

(2) [Are economic development projects which] *Is a project which will generate substantial increases in or maintain current levels of* employment, tax revenues or other measures of economic activity. This paragraph includes [projects with cultural, historical or civic significance.]:

(i) *a community asset project; and*

(ii) *a housing project that will support and generate economic activity.*

(3) ~~[Are facilities which have]~~ *Is a project that has a regional or multijurisdictional impact or, in the case of housing, is part of a community revitalization plan.*

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

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

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

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

(iii) toward which State funds from other programs may not be used; and

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

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

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

(i) A redevelopment authority.

(ii) An industrial development authority.

(iii) A general purpose unit of local government.

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

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

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

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

* * *

"Secretary." The Secretary of the Budget.

* * *

Section 2. Section 303 of the act, amended December 22, 2005 (P.L.454, No.87), is repealed:

[Section 303. Procedures for capital budget bill and debt-authorizing legislation.

(a) Legislative process.—A capital budget prepared in accordance with this chapter shall be submitted for each fiscal year by the Governor

to the General Assembly and shall be considered in the form of a bill as provided in Article III of the Constitution of Pennsylvania.

(b) Itemization.—

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

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

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

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

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

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

(c) Timing.—Each year the Governor shall submit a capital budget bill for the ensuing fiscal year.

(d) Additional bills.—At the time the Governor submits the capital budget or a supplement, the Governor shall, to the extent the debt to be incurred is not within the limits of legislation then in force authorizing the incurring of debt, submit additional bills for each category of capital projects, authorizing the incurring of debt to provide funds for and towards the payment of the financial costs of capital projects in such category which have been specifically itemized in a capital budget for the same or any prior year.

(e) Categories.—Each debt-authorizing bill must do all of the following:

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

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

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

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

Section 2.1. The act is amended by adding sections to read:

Section 303.1. Procedures for capital budget.

(a) Legislative process.—

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

(2) A capital budget bill under paragraph (1) must state the maximum amount of the obligations which may be incurred in the ensuing fiscal year to provide funds for and towards the financial costs of each category of capital projects, which shall be by the issue of general obligations of the Commonwealth.

(b) Categories.—Each capital budget bill must do all of the following:

(1) State the category of capital projects to be financed by the authorized debt. A capital budget bill shall not have to enumerate the capital projects to be financed.

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

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

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

Section 303.2. Capital project itemization bill.

(a) Requirement.—

(1) Except as set forth in paragraph (2), the capital project itemization bill must specifically itemize the capital projects to be financed from the proceeds of obligations of the Commonwealth.

Capital project itemization must include all of the following:

(i) A description of the capital project, including the municipality or county in which the capital project is located.

(ii) The estimated financial cost of the capital project.

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

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

(ii) included in one or more supplemental capital budget bills or capital project itemization bills.

(3) Capital projects must be listed in separate categories as well as according to the fund to be charged with the repayment of the obligations to be incurred.

(b) (Reserved).

Section 2.2. Section 313.1 of the act, added December 22, 2005 (P.L.454, No.87), is amended to read:

Section 313.1. Reports related to redevelopment assistance capital projects.

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

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

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

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

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

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

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

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

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

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

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

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

(a) **[Officers.—The Secretary of the Budget shall review and shall approve or disapprove applications for redevelopment assistance capital projects.]** *Limitation.—A redevelopment assistance capital project may not receive funds unless the project was itemized in a capital project itemization bill or a capital budget bill, enacted within ten years of the date the project was approved under this section.*

(a.1) Application.—An applicant shall submit an application to the office consistent with the timeline established by the office requesting a grant for a redevelopment assistance capital project. The proposal must be on the form required by the office and must include or demonstrate all of the following:

(1) The applicant's name and address.

(2) The location of the project.

(3) An estimate of the cost of the project, prepared by a qualified professional.

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

(5) Any other information required by the office.

(a.2) Review and approval.—The office shall review the application to determine if all the requirements have been met. Upon being satisfied that all requirements have been met and after allowing for a 30-day public comment period, the secretary may approve the application, and, if approved, the office shall notify:

(1) The applicant.

- (2) *The President pro tempore of the Senate.*
- (3) *The Majority Leader of the Senate.*
- (4) *The Minority Leader of the Senate.*
- (5) *The chairman and minority chairman of the Appropriations Committee of the Senate.*
- (6) *The Speaker of the House of Representatives.*
- (7) *The Majority Leader of the House of Representatives.*
- (8) *The Minority Leader of the House of Representatives.*
- (9) *The chairman and minority chairman of the Appropriations Committee of the House of Representatives.*
- (10) *The State Senator and the State Representative of the district where the redevelopment assistance capital project is located.*

(a.3) Acceptance and grant agreement.—*Within 30 days of receiving notification of approval under subsection (a.2), an applicant shall notify the office if the applicant accepts the grant. If the applicant notifies the office that it intends to accept the grant, the office shall forward to the applicant a grant agreement to be executed by the applicant. The grant agreement and any attachments thereto shall include the following:*

- (1) *The name and address of who will administer the grant.*
- (2) *A statement and proof of local funding.*
- (3) *An itemized statement of cost associated with the project.*
- (4) *A contract obligating the applicant to use the grant for the project.*
- (5) *A request for any other information the office may require.*

(a.4) Execution.—*The applicant shall return the information requested and the executed contract within the timelines established by the office. If the applicant fails to return the executed contract within the timelines established by the office, no contract may be executed by the office for the grant.*

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

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

(e) Verification.—*Redevelopment assistance capital project cost estimates must be verified by the [Office of the Budget] office or its designated agent before final approval is given to a project application. Cost estimates include total project cost, projected use for State and non-State funds and a year-by-year schedule of costs for the entire project construction phase.*

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

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

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

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

(j) Guidelines.—Within 60 days of the effective date of this subsection, the office shall establish guidelines concerning the administration of and approval process for redevelopment assistance capital projects. The guidelines shall, at a minimum, establish application timelines, application content and the review, evaluation and award criteria and process. The criteria shall reflect population and geographic distinctions of various communities throughout this Commonwealth. The guidelines must be posted on the Internet website of the office.

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

Section 5. This act shall take effect immediately.

APPROVED—The 25th day of October, A.D. 2013

TOM CORBETT