

No. 2016-28

AN ACT

HB 944

Amending the act of December 21, 1998 (P.L.1307, No.174), entitled "An act relating to cities of the first class, establishing Neighborhood Improvement Districts; conferring powers and duties on municipal corporations and Neighborhood Improvement Districts; and providing for annual audits and for tourism and marketing," further providing for definitions, for powers of municipal corporation, for creation of neighborhood improvement districts, for creation of neighborhood improvement district management association, for powers of neighborhood improvement district management association, for annual audit and report and for applicability.

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

Section 1. Section 3 of the act of December 21, 1998 (P.L.1307, No.174), known as the Community and Economic Improvement Act, is amended by adding definitions to read:

Section 3. Definitions.

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

"Affected property owner." *A property owner with respect to whom a special assessment fee is proposed to be or has been levied as authorized by this act.*

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"Curb market stand." *A stand at which merchandise may be sold and that is located in a roadway abutting a curb at a location designated by a municipality.*

* * *

"Property owner." *An owner of real property or the holder of a license to operate a curb market stand which property or stand is located in a neighborhood improvement district or proposed neighborhood improvement district.*

* * *

Section 2. Section 4(6) of the act is amended to read:

Section 4. Powers of municipal corporation.

Every municipal corporation shall have the power:

* * *

(6) To acquire, by gift, **purchase or eminent domain,** or purchase, land, real property or rights-of way which may be needed for the purposes of making physical improvements within the NID.

* * *

Section 3. Section 5(b), (c)(2)(v) and (3)(vii), (d), (e), (f) and (g)(1), (2) and (3) of the act are amended and the section is amended by adding a subsection to read:

Section 5. Creation of neighborhood improvement district.

* * *

(b) Specific procedures.—

(1) A copy of **[everything required under this section]** *the preliminary plan or any revised plan with respect to which a public hearing must be held under this act*, as well as the date, location and time of any public hearing required by this act, shall be provided by the municipal corporation to all *affected* property owners and lessees of *affected* property owners **[located in the proposed NID]** at least 30 days prior to **[the first]** *any* public hearing required by this section.

(2) At least one public hearing**[, no earlier than 15 days apart,]** for the purpose of receiving public comment *on the proposed NIDP* from affected property owners **[within the proposed NID, on the proposed NIDP,]** shall be held by the municipality before the establishment of an NID. Notice of the hearing shall *be provided in accordance with paragraph (1) and shall* be advertised at least ten days prior thereto in a newspaper of general circulation in the municipality.

[(3) Any objections by property owners within the proposed NID must be made in writing by persons representing the ownership of 51%, in numbers, of the benefited properties within the NID or by property owners within the proposed NID whose property valuation as assessed for taxable purposes shall amount to 51% of the total property valuation within the NID. Objections must be signed by the property owner and filed in the office of the clerk for the governing body of the municipality in which the NID is proposed.]

(4) *If revisions, other than technical revisions, are made to the preliminary plan or a revised preliminary plan, a public hearing shall be held for the purpose of receiving public comment on the revisions with notice and advertising provided in accordance with paragraphs (1) and (2).*

(5) *Objections to the proposed NID may be filed by affected property owners within the NID. Objections shall be in writing, signed by the property owner, identify the address of any property for which objection is being made and be filed in the office of the clerk for the governing body of the municipality in which the NID is proposed at any time no more than 45 days after the hearing held on the final plan.*

(6) *An objection filed in connection with a preliminary plan or a revised preliminary plan shall constitute an objection to the final plan, unless such objection is withdrawn in writing by the objector.*

(7) *The filing of objection by:*

(i) *affected property owners representing the ownership of at least one-third of the properties owned by affected property owners within the NID;*

(ii) *affected property owners within the NID, the value of whose properties, as assessed for taxable purposes, amounts to at least one-third of the total property valuation of property owned by affected property owners within the NID,*
shall prohibit the establishment of a proposed NID.

(8) (i) For purposes of paragraph (7)(i), the holding of a license to operate a curb market stand that brings the person within the definition of a property owner under this act shall be considered ownership of a property.

(ii) For purposes of paragraph (7)(ii), in order to determine the value associated with the holder of a license to operate a curb market stand and the impact on the total property valuation of property owned by affected property owners within the NID, the value of the license to operate a curb market stand shall be equal to a portion of the average tax assessment value of real property owned by affected property owners within the district. The portion shall be determined by multiplying that average tax assessment value by the ratio of the proposed amount of the NID assessment on curb market stand license holders in relation to the planned NID assessment for a parcel of real property with a tax assessment value equal to the average of tax assessment values of real property owned by affected property owners within the district.

(c) Contents of preliminary plan.—The plan shall include the following:

* * *

(2) A written report from the municipality containing:

* * *

(v) A proposed budget for [the first fiscal year] *each year of proposed operation of the NID covered by the NIDP*, including, but not limited to, the following: personnel and administration, programs and services, maintenance and operation, and capital expenditures.

* * *

(3) In addition, the plan shall also:

* * *

(vii) [Provide that a negative vote of at least 51% of the property owners within the NID or property owners within the NID whose property valuation as assessed for taxable purposes amounts to 51% of the total property valuation located within the NID proposed in the final plan shall be required to defeat the establishment of the proposed NID by filing objections with the clerk for the governing body of the municipality within 45 days of presentation of the final plan where the governing body of municipality is inclined to establish the NID.] *Set forth the provisions of subsection (b)(4).*

(d) [Final plan.—Prior to the establishment of an NID, the municipality shall submit a revised final plan to property owners located within the proposed NID which incorporates changes made to the plan based on comments from affected property owners within the NID provided at the public hearings or at some other time. Changes to the final plan which differ from the preliminary plan] *Plan revisions.—Revisions to a preliminary plan or a revised preliminary plan shall [also] be [so] indicated in an easily discernible method for the reader, including, but not limited to, changes being in boldfaced or italicized type.*

[(e) Public hearing.—At least one public hearing for the purpose of receiving public comment on any revisions to the preliminary plan made following suggestions by affected property owners within the proposed NID and reflected in the final NIDP shall be held by the municipal corporation before enacting an ordinance establishing an NID. Notice of the hearing shall be advertised at least ten days prior thereto in a newspaper of general circulation in the municipality.]

(f) Veto of final plan for NID.—

(1) Following the last public hearing required under subsection (e) or under subsection (g) if an amendment to the final plan, affected property owners located within a proposed NID shall have 45 days from the date of the hearing to object to and disapprove the final plan or any amendment to the final plan under the requirements of subsection (b)(3).

(2) If 51% or more of the affected property owners or property owners whose property valuation as assessed for taxable purposes amounts to 51% of the total property valuation within the proposed NID fail to register their disapproval of the final plan or amendment to the final plan in writing with the clerk of the governing body of the municipality in which the NID is proposed, the governing body of the municipality may, following the 45-day period, enact a municipal ordinance establishing an NID under this act or, in the case of an amendment to the final plan, adopt any amendments to the ordinance.]

(f.1) Approval of final plan for NID.—If fewer than the number of objections needed under this section to prohibit adoption of an NIDP or an amendment to an NIDP are received by the clerk of the governing body of the municipality within 45 days after a hearing on the final plan, the governing body of the municipality may, following the 45-day period, enact a municipal ordinance establishing an NID under this act or, in the case of an amendment to the final plan, adopt any amendments to the ordinance.

(g) Amendments to final plan.—

(1) The final plan may be amended by the NIDMA any time after the establishment of an NID, [pursuant to the provisions of this act,] upon the recommendation of the NIDMA board, provided [there is concurrence with the owners of at least 51% of the assessed valuation of all property within the NID or 51% of the property owners within the NID.] *the NIDMA board notifies in writing affected property owners of any amendment and the property owners' right to file objections to the amendment with the chief clerk of the governing body of the municipality. If, within 45 days of notification, affected property owners representing the ownership of at least one-third of the affected properties within the NID or affected property owners within the NID whose property valuation, as assessed for taxable purposes, amounts to one-third of the total property valuation of affected property owners within the NID file objections to the amendment with the chief clerk of the governing body of the municipality, the plan shall not be amended.*

(2) [Amendments] *The following amendments to the final plan [which] also require, in addition to the requirements of paragraph (1),*

the approval of the governing body of the municipality establishing the NID **[include]**:

- (i) Substantially changed or added programs, improvements and/or services to be provided in the NID.
- (ii) **[Increased expenditures affecting more than 25% of the total NIDMA budget for the fiscal year.] *Increases in the budget for any year with respect to which a budget has been approved in an NIDP approved by the governing body.***
- (iii) Incurring increased indebtedness.
- (iv) Changing the assessment fee structure levied on property owners in the NID.
- (v) Changing the legal entity (NIDMA) which provides programs, improvements and services within the NID.
- (vi) Changing the NID service area boundary.

Prior to the governing body of the municipality approving any of the changes in this paragraph, the governing body shall hold at least one public hearing to determine that such changes are in the public interest as it relates to affected property owners within the NID.

(3) The municipality shall provide public notice of the hearing for any amendments ***requiring approval of the governing body*** by publication of a notice in at least one newspaper having a general circulation in the NID, specifying the time and the place of such hearing and the amendments to be considered. This notice shall be published once at least 10 days prior to the date of the hearing.

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Section 4. Sections 6(b) and (d)(3), 7(b)(2), 9 and 12(c), (d) and (e) of the act are amended to read:

Section 6. Creation of neighborhood improvement district management association.

* * *

(b) Administration.—

[(1)] NIDs created pursuant to this act shall be administered by an NIDMA which shall be an authority created pursuant to the act of May 2, 1945 (P.L.382, No.164), known as the Municipality Authorities Act of 1945, an existing nonprofit development corporation, an existing nonprofit corporation or a nonprofit development corporation or nonprofit corporation established by the governing body or authorized to be established by the governing body of the municipality in which the NID is to be located, to administer the NIDP.

[(2)] **If an active nonprofit development corporation already exists within the geographic boundaries of the NID and formally indicates its interest to the governing body of the municipality to become the designated NIDMA, the governing body of the municipality shall grant that request unless 51% or more of the affected property owners or property owners whose property valuation as assessed for taxable purposes amounts to 51% of the total property valuation within the proposed NID register their disapproval of this designation in writing with the clerk of the governing body within a 45-day**

period following the formal written request for designation by the nonprofit development corporation to become the NIDMA.]

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(d) Board.—Every NIDMA shall have an administrative board.

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(3) Where a nonprofit development corporation or other nonprofit corporation is established to serve as the NIDMA for an NID, the board shall be comprised of an odd number of members, between five and **[nine] fifteen**, with at least one member representing the municipal corporation in which the NID is located.

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Section 7. Powers of neighborhood improvement district management association.

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(b) Assessments.—

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[(2) All assessments authorized under this section shall be calculated using January 1 as the first day of the fiscal year.]

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Section 9. Annual audit; report.

The NIDMA shall annually:

(1) submit an audit of all income and expenditures to the Department of Community and Economic Development **[and]**, the governing body of the municipality in which the NID is located **and any other municipal department, designated by the NID ordinance**, within 120 days after the end of each fiscal year; and

(2) submit a report, including financial and programmatic information, including a summary of audit findings, to the governing body of the municipality in which the NID is located **[and]**, to all assessed property owners located in the NID **and to any other municipal department, designated by the NID ordinance, within 120 days after the end of each fiscal year.**

Section 12. Applicability.

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[(c) Districts created subsequently.—Any NID established subsequent to the effective date of this act shall be governed by the provisions of this act.

(d) Previously terminated districts.—Any business improvement district or downtown improvement district in existence prior to the effective date of this act which is terminated shall, upon its reestablishment, be governed by the provisions of this act. This shall include any termination resulting from a sunset provision in any municipal agreement or ordinance.]

(e) [Additional requirements.—] Requirements.—A business improvement district may be established or continued pursuant to provisions of this act or the provisions of the Municipality Authorities Act of 1945, insofar as it relates to business improvement districts. Any business improvement

district or downtown improvement district **[in existence on the effective date of this act shall:**

(1) be required to carry out any duty or responsibility imposed on NIDs under this act; and

(2)] *established under the Municipality Authorities Act of 1945, insofar as it relates to business improvement districts, shall* possess any additional power given to NIDs under this act without having to restructure or reorganize under this act.

Section 5. This act shall take effect in 60 days.

APPROVED—The 24th day of May, A.D. 2016

TOM WOLF