

No. 2019-101

AN ACT

HB 1410

Amending the act of December 8, 2004 (P.L.1801, No.238), entitled "An act empowering municipalities, counties and public transportation agencies to work cooperatively to establish Transit Revitalization Investment Districts (TRID), including partnerships with the National Railroad Passenger Corporation requiring planning studies, comprehensive plan and zoning amendments and use of existing statutes and techniques to achieve transit-oriented development, redevelopment, community revitalization and enhanced community character through TRID creation; establishing value capture areas as a means to reserve and use future, designated incremental tax revenues for public transportation capital improvements, related site development improvements and maintenance; promoting the involvement of and partnerships with the private sector in TRID development and implementation; encouraging public involvement during TRID planning and implementation; and providing for duties of the Department of Community and Economic Development," in general provisions, further providing for declaration of policy and for definitions; providing for military installation remediation; and establishing the Military Installation Remediation Fund.

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

Section 1. Section 102 of the act of December 8, 2004 (P.L.1801, No.238), known as the Transit Revitalization Investment District Act, is amended by adding a paragraph to read:

Section 102. Declaration of policy.

The General Assembly finds and declares as follows:

(3) There is a lack of funding and knowledge relating to remediation needed at military installations to address PFAS contamination, and there is a need to provide for proper infrastructure in the water systems on military installations and surrounding parcels.

Section 2. Section 103 of the act is amended by adding definitions to read:

Section 103. 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:

"Deteriorated property." The term shall have the same meaning as in section 103 of the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act.

"Military installation remediation project." A project or use of money by a qualified authority under section 303-A(a).

"Qualified authority." *A municipal authority established under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) after the effective date of this definition by a qualified municipality for the purpose of funding military installation remediation projects.*

"Qualified former military installation." *A parcel that was previously used by a branch of the United States Armed Forces for a military installation that was officially disestablished based on the recommendation of the Defense Base Closure and Realignment Commission no more than 15 years prior to the effective date of this definition. The term shall not include a parcel which was used exclusively for housing.*

"Qualified municipality." *A municipality which has within its geographic bounds a qualified former military installation.*

"Qualified tax." *All of the following:*

(1) *Corporate net income tax, bank shares tax, personal income tax paid by shareholders, members or partners of Subchapter S corporations, limited liability companies, partnerships or amounts paid by sole proprietors on income other than passive activity income as defined under section 469 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) attributable under section 301-A(i) to a parcel designated under section 301-A(a)(4).*

(2) *Sales and use tax, only to the extent the tax is related to the activity of a qualified taxpayer within a parcel designated under section 301-A(a)(4). The term includes sales and use taxes on material used for construction and business personal property to be used by a qualified taxpayer in a parcel designated under section 301-A(a)(4).*

(3) *Personal income tax withheld from employees by a qualified business for work performed in a parcel designated under section 301-A(a)(4).*

(4) *Realty transfer tax paid to the Commonwealth, for property purchased within a parcel designated under section 301-A(a)(4).*

(5) *Local taxes designated by a local taxing entity.*

The term does not include a cigarette tax.

"Qualified taxpayer." *A person conducting business for profit in a parcel designated under section 301-A(a)(4) or an individual whose primary residence is in a parcel designated under section 301-A(a)(4). The term does not include a person conducting business for profit that moved operations from a non-designated parcel in a county in which a qualified former military installation is located to the designated parcel after the effective date of this definition.*

"Tax Reform Code of 1971." *The act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.*

Section 3. The act is amended by adding a chapter to read:

**CHAPTER 3-A
MILITARY INSTALLATION REMEDIATION**

Section 301-A. Military installation remediation program.**(a) Applications.—**

(1) A qualified authority shall submit an application to the Department of Revenue with a list of parcels. The list may include the following:

(i) A qualified former military installation.

(ii) A parcel in the qualified municipality which was previously subject to development restrictions due to the presence of the qualified former military installation.

(iii) No more than 100 acres of parcels in the qualified municipality which are deteriorated.

(2) The application shall include the relevant geographic data, parcel numbers, evidence of the development restrictions due to the presence of the qualified military installation and such additional information as prescribed by the Department of Revenue.

(3) A qualified authority may file an amended or supplemental application on an annual basis.

(4) Parcels included within applications that meet Department of Revenue criteria shall receive full designation for the program described in this section.

(5) A designation under paragraph (4) shall occur within 60 days after the submission of an application.

(b) Annual report.—By October 15, 2019, June 1, 2020, and June 1 each year thereafter, a qualified authority shall file an annual report with the Department of Revenue with all of the following information:

(1) A list of all qualified taxpayers located in parcels designated under subsection (a).

(2) A commitment from the governing board of a municipality that approves designating local revenue for use for the local efforts under section 303-A(c).

(c) Contents.—The annual report under subsection (b) shall include all businesses and residents located in or residing in the designated parcels and all businesses engaged in acquisition, development and construction in designated parcels during the prior calendar year. The annual report shall include for each business the address, the names of the business owners or corporate officers, State tax identification number, if available, and parcel number and a map with parcel numbers.

(d) Time.—If the annual report under subsection (b) is not timely provided to the Department of Revenue, the Department of Revenue may refuse to certify the eligible taxes for the purpose of the transfer under subsection (j) for the calendar year.

(e) Parcel report.—No later than November 15, 2019, September 1, 2020, and September 1 each year thereafter, each qualified taxpayer shall file a parcel report with the Department of Revenue in a form or manner required by the department that includes all of the following:

(1) The amount of each qualified tax paid to the Commonwealth by the qualified taxpayer for the prior calendar year.

(2) The amount of each qualified tax refund received from the Commonwealth for the prior calendar year by the qualified taxpayer.

(f) Penalties.—

(1) Failure to file a timely and complete parcel report under subsection (e) may result in the imposition of a penalty of the lesser of:

(i) ten percent of all eligible tax due the taxing authority in the prior calendar year; or

(ii) one thousand dollars.

(2) A penalty for a violation of subsection (e) shall be imposed, assessed and collected by the department under procedures specified in Article II of the Tax Reform Code of 1971. Money collected under this paragraph shall be deposited in the General Fund.

(3) Failure by a municipality to make a contribution in accordance with section 303-A(c) shall disqualify the municipality from the receipt of any funding under this chapter.

(g) Certification.—By January 15, 2020, December 1, 2020, and December 1 each year thereafter, the Department of Revenue shall:

(1) Determine the amount of eligible tax paid by each qualified taxpayer as on the parcel report, which qualified taxpayer appears on a timely filed annual report under subsection (b) and that made a timely parcel report under subsection (e).

(2) Determine the amount of eligible State tax refunds received less the amount of eligible State tax paid.

(3) Certify to the Office of the Budget the sum derived from adding the amounts determined under paragraphs (1) and (2).

(h) Content.—

(1) The certification may include the following:

(i) Qualified taxes actually paid by qualified taxpayers for the appropriate calendar year.

(ii) Qualified tax refunds paid to qualified taxpayers for the appropriate calendar year.

(2) The certification shall not include the following:

(i) Qualified taxes paid by a qualified taxpayer that did not file a timely parcel report.

(ii) Qualified taxes paid by a qualified taxpayer not appearing on the timely filed annual report.

(i) State tax liability apportionment.—For the purpose of making the calculations under the certification, the qualified tax liability of a qualified taxpayer shall be apportioned to the designated parcels under subsection (a)(4) by multiplying the State tax liability by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three, in accordance with the following:

(1) The property factor is a fraction, the numerator of which is the average value of the qualified taxpayers' real and tangible personal property owned or rented and used in the designated parcels during the tax period and the denominator of which is the average value of all the qualified business' real and tangible personal property owned or rented and used in this Commonwealth during the tax period but shall not include the security interest of any corporation as seller or lessor in personal property sold or leased under a conditional sale, bailment

lease, chattel mortgage or other contract providing for the retention of a lien or title as security for the sale price of the property.

(2) The following apply:

(i) The payroll factor is a fraction, the numerator of which is the total amount paid in the designated parcels during the tax period by the qualified taxpayer for compensation and the denominator of which is the total compensation paid in this Commonwealth during the tax period.

(ii) Compensation is paid in the designated parcels if:

(A) the person's service is performed entirely within the designated parcels;

(B) the person's service is performed both within and without the designated parcels, but the service performed without the designated parcels is incidental to the person's service within the designated parcels; or

(C) some of the service is performed in the designated parcels and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the designated parcels, or the base of operations or the place from which the service is directed or controlled is not in any location in which some part of the service is performed, but the person's residence is in the designated parcels.

(3) The sales factor is a fraction, the numerator of which is the total sales of the qualified taxpayer in the designated parcels during the tax period and the denominator of which is the total sales of the taxpayer in this Commonwealth during the tax period.

(i) Sales of tangible personal property are in the designated parcels if the property is delivered or shipped to a purchaser that takes possession within the designated parcels regardless of the F.O.B. point or other conditions of the sale.

(ii) Sales other than sales of tangible personal property are in the designated parcels if:

(A) the income-producing activity is performed in the designated parcels; or

(B) the income-producing activity is performed both within and without the designated parcels and a greater proportion of the income-producing activity is performed in the designated parcels than in any other location, based on costs of performance.

(j) Transfer.—Within five days of receiving the certification from the Department of Revenue, the Office of the Budget shall direct the State Treasurer to transfer the amount of certified qualified tax from the General Fund to each special fund established for the benefit of a qualified authority under section 302-A.

(k) State Treasurer.—Within 10 days of receiving direction under subsection (j), the State Treasurer shall pay into each special fund established under section 302-A the amount directed to the respective authority for use only as provided under section 303-A(a).

Section 301.1-A. Per- and Polyfluoroalkyl Substances Remediation Program.

(a) **Establishment.**—*The Pennsylvania Infrastructure Investment Authority shall establish the Per- and Polyfluoroalkyl Substances Remediation Program.*

(b) **Purpose.**—*In addition to any other program of the Pennsylvania Infrastructure Investment Authority, from funds available to the Pennsylvania Infrastructure Investment Authority, the Pennsylvania Infrastructure Investment Authority shall provide grants under the Per- and Polyfluoroalkyl Substances Remediation Program for the costs of remediation relating to the presence of per- and polyfluoroalkyl substances in drinking water which are not related to the presence of a qualified former military installation.*

(c) **Guidelines.**—*The Pennsylvania Infrastructure Investment Authority shall establish guidelines for the Per- and Polyfluoroalkyl Substances Remediation Program.*

(d) **Eligible applicants.**—*A water provider with per- and polyfluoroalkyl substances present in drinking water may apply to the Pennsylvania Infrastructure Investment Authority for a grant under the Per- and Polyfluoroalkyl Substances Remediation Program.*

Section 302-A. Special funds.

(a) **Notice.**—*Following the approval of an application under section 301-A, a qualified authority shall notify the State Treasurer who shall create a special fund to be known as the Military Installation Remediation Fund.*

(b) **Establishment.**—*Upon receipt of notice under subsection (a), the State Treasurer shall establish for each qualified former military installation a restricted account within the special fund for the benefit of the qualified authority. Interest income derived from the investment of money in a restricted account shall be credited by the State Treasury to the restricted account.*

Section 303-A. Restrictions.

(a) **Use.**—

(1) *Except as provided under paragraph (2) and (3), money transferred under section 301-A shall be used for the operational costs for the qualified authority.*

(2) *Money under this paragraph shall be allocated in proportion to the amount of local effort under subsection (c). Money transferred under section 301-A in excess of the amount used under paragraph (1), to the extent such funds are available, shall be used to do any of the following:*

(i) *Offset a surcharge applied to customers of a water provider relating to the costs of remediation relating to per- and polyfluoroalkyl substances present in drinking water related to the presence of a former military installation.*

(ii) *Offset an amount attributable to an amount billed to customers of a water provider relating to the costs of remediation relating to per- and polyfluoroalkyl substances present in drinking water related to the presence of a former military installation.*

(iii) Offset the cost of connecting a residence with a private well which is impacted by the presence of per- and polyfluoroalkyl substances in drinking water related to a former military installation to a public water supply.

(3) Money transferred under section 301-A in excess of the amount used under paragraphs (1) and (2), to the extent such funds are available, may be used for any of the following:

(i) The transportation infrastructure and economic development costs within a qualified municipality to encourage redevelopment of the qualified former military installation.

(ii) The payment of debt service on bonds issued or refinanced for the acquisition, development, construction, including related infrastructure and site preparation, reconstruction, renovation or refinancing of a project under subparagraph (i).

(b) Applications.—The qualified authority shall establish an application process for allocations under this section.

(c) Local effort.—A municipality or municipal authority may make contributions to the qualified authority. A contribution under this subsection shall be made no later than November 15, 2019, June 1, 2020, and June 1 each year thereafter to be considered under section 303-A(d).

(d) Limitations on transfers.—Money transferred to a special fund under section 301-A may not exceed 500% of the local taxes and additional money designated and transferred to the qualified authority by a municipality or municipal authority during the year.

(e) Excess money.—

(1) If the amount of money transferred to a fund in any one calendar year exceeds the money utilized, designated or budgeted under this section in that calendar year, the qualified authority shall submit by April 15 following the end of the calendar year the excess money to the State Treasurer for deposit into the General Fund.

(2) At the time of submission to the State Treasurer, the contracting authority shall submit to the State Treasurer, the Office of the Budget and the Department of Revenue a detailed accounting of the calculation resulting in the excess money.

Section 304-A. Duration.

An application approved under section 301-A(a) shall be in effect for a period no later than 30 years from the effective date of this section.

Section 305-A. Qualified authority.

(a) Composition.—Notwithstanding 53 Pa.C.S. § 5610(a) (relating to governing body), the governing body of a qualified authority shall be composed of the following members:

(1) Two members subject to the following:

(i) If a member of the Senate has a permanent residence in the qualified municipality, the member shall be a member of the governing body.

(ii) If a member of the Senate has a permanent residence in a municipality which is immediately adjacent to a qualified municipality and that municipality has within its geographic bounds a former military installation where activities caused per- and

polyfluoroalkyl public drinking water contamination, the member shall be a member of the governing body.

(iii) If either subparagraph (i) or (ii) do not apply, the President pro tempore of the Senate shall appoint a permanent resident or residents of the appropriate municipality to the governing body.

(2) Two members subject to the following:

(i) If a member of the House of Representatives has a permanent residence in the qualified municipality, the member shall be a member of the governing body.

(ii) If a member of the House of Representatives has a permanent residence in a municipality which is immediately adjacent to a qualified municipality and that municipality has within its geographic bounds a former military installation where activities caused per- and polyfluoroalkyl public drinking water contamination, the member shall be a member of the governing body.

(iii) If either subparagraph (i) or (ii) do not apply, the Speaker of the House of Representatives shall appoint a permanent resident or residents of the appropriate municipality to the governing body.

(3) One permanent resident of the qualified municipality appointed by a school district which has within its geographic bounds a qualified former military installation.

(4) One permanent resident of the qualified municipality appointed by an authority established to redevelop the qualified former military installation.

(5) One permanent resident of the qualified municipality appointed by the governing body of the qualified municipality.

(b) Terms.—The following shall apply:

(1) Members appointed under subsection (a)(1), (2) and (4) shall serve for a term of five years.

(2) All other members shall serve for a term of four years.

(c) Salary and expenses.—Members may not receive a salary but may be reimbursed for necessary and reasonable expenses incurred in the performance of their duties.

Section 4. This act shall take effect immediately.

APPROVED—The 27th day of November, A.D. 2019

TOM WOLF