



Senate Finance Committee

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BILL SUMMARY

Legislation: Senate Bill 968, P.N. 1111
Sponsor: Senator Vulakovich
Act Amended: Tax Reform Code
Date: December 11, 2013

Summary:

Senate Bill 968 amends the Tax Reform Code to create the waterfront tax credit. The purpose of the credit is to encourage private investment in waterfront property which creates public access to the water, increases property values, restores ecology and catalyzes further financial investment and job creation.

Analysis:

Waterfront Development Organization

Organization that is a non-profit entity which is all of the following:

- Is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code
- Has been in existence for at least 5 years
- Has a board of directors that meets at least once annually
- Has completed a waterfront development plan
- Uses at least 95% of its annual contributions from eligible applicants for authorized waterfront development project

In order to participate in the Waterfront Development Tax Credit program, the organization must submit information to Department of Community and Economic Development (DCED) to confirm its 501(c)(3) status, certify it is eligible to participate in the program on forms provided by DCED, and agree to provide an annual report to the General Assembly with information on their waterfront development plans and projects by September 1st of each year.

DCED shall notify the organization of their eligibility within 60 days of the organization's application submission. DCED shall publish a list of all waterfront development organizations annually in the Pennsylvania Bulletin and on the department's website.

The Department of Revenue shall provide a list of all waterfront development organizations receiving contributions from eligible applicants granted a tax credit to the General Assembly by June 30th of each year.

Waterfront Development Plan

Plan approved by DCED which meets the following requirements:

- Provides for the development or enhancement of waterfront property that creates public access to water, increases property values, restores ecology and catalyzes further financial investment and job creation
- Adheres to current environmental practices
- Considers and integrates approaches that support natural and native habitat
- Considers and integrates architectural and landscape design elements

Waterfront Development Project

Project to develop a waterfront site or area or a project which creates or improves public access to the waterfront.

The term may include streets and public rights-of-way; waterfront parks, gardens and open spaces; enhancements to access to public utilities; the promotion of erosion control, storm water management and other environmental projects which promote economic development; water transportation facilities for use by the public; and amenities including infrastructure and recreational projects. Projects may be subject to inspection by DCED or its designated agent.

A waterfront development organization shall apply to DCED for approval of a waterfront development project to be eligible for a waterfront development tax credit by providing the following information:

- Location of the project
- Type of waterfront development project
- Detailed description of the project
- Status of the project
- Anticipated start and completion date
- Life expectancy of the project and maintenance plan
- Estimated cost of the project
- Analysis of the direct current and future benefits derived from the project
- The manner in which the organization will verify eligibility of costs, monitor progress, and assure contribution are used for the project which they have been designated

DCED, in conjunction with the Department of Conservation and Natural Resources (DCNR), shall review applications and notify an organization whether their project has been approved or disapproved within 60 days of receipt of application. If the application is disapproved, the notice shall include reasons for disapproval and the organization will have 30 days to resubmit the application.

Upon completion of a project, the waterfront development organization shall submit written notice of completion to DCED and include certification the project is complete, upkeep and maintenance plan, and any other information required by DCED.

Waterfront Development Tax Credit

An eligible applicant (business or individual) shall apply to DCED and receive a tax credit if the waterfront development organization that receives the contribution from the eligible applicant appears on the list approved by DCED and the project for which the contribution is to be used is approved by DCED. Contributions by an eligible applicant to an approved project must be made no later than 60 days following the approval of an application for the tax credit.

DCED may accept applications for tax credits beginning on July 1st of each fiscal year. If the eligible applicant applies for tax credits as part of the second of a two-year commitment or as a

renewal of a two-year commitment which was fulfilled in the previous fiscal year, the application may be accepted beginning on May 15th preceding the start of the fiscal year.

Tax credits shall be available on a first-come, first-served basis.

The Department of Revenue shall grant a tax credit against any state, individual, or business tax providing proof of a contribution to a waterfront development project in the year the contribution is made. The tax credit shall not exceed 75% of the total amount contributed during a taxable year, unless the eligible applicant provides a written commitment to provide the waterfront development organization with the same amount of contribution for two years. If there is a commitment for a two year contribution, the Department of Revenue shall grant a tax credit of up to 90% of the total amount contributed during the taxable year. A tax credit not used in the taxable year a contribution is made may not carry forward, carry back, and is not refundable or transferable.

If a pass-through entity does not intend to use all the approved tax credits, it may elect in writing to transfer all or a portion of the tax credit to its shareholders, members or partners for use in the taxable year in which the contribution is made or the taxable year immediately following the year the contribution is made. The shareholder, member or partner of a pass-through entity may not carry forward, carry back, obtain a refund or sell or assign the tax credit.

No tax credit may be applied against any tax withheld by an employer from an employee under Article III.

The total aggregate amount of all tax credits shall not exceed \$10,000,000. The Department of Revenue shall provide a list of all waterfront development organizations receiving contributions from eligible applicants granted a tax credit to the General Assembly by June 30th of year.

Effective date: This act shall take effect in 60 days.