SPONSOR: Rep. Carson & Sen. Bushweller & Sen. Ennis
Reps. Bennett, Outten, Spiegelman, Yearick; Sen. Lawson

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY

HOUSE BILL NO. 115
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND CHAPTER 18, TITLE 22 OF THE DELAWARE CODE RELATING TO MUNICIPAL SPECIAL DEVELOPMENT DISTRICTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend §1801, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1801. Definitions.

In this chapter, the following terms have the meanings indicated.

(2) "Cost" includes the cost of:

a. Construction, reconstruction and renovation, and acquisition of all lands, structures, real or personal property, rights, rights-of way, franchises, easements and interests acquired or to be acquired by a ~~municipality~~ municipal, local, county, state, or federal government or any agency, department, or office thereof for a public purpose;

b. All machinery and equipment including machinery and equipment needed to expand or enhance ~~municipal services~~ the services of a municipal, local, county, state, or federal government or any agency, department, or office thereof to the special development districts created pursuant to § 1802(a) of this title;

(4) "Municipality" or "municipality" means any town or city located within the State with a population in excess of ~~50,000~~ 35,000 people.

(5) "Issuing Body" or "issuing body" means a municipality (other than the municipality issuing bonds under this Chapter or Chapter 17 of this title), a county, or other political subdivision, department or agency of the State when it acts to issue a bond, a note, or other similar instrument.

(6) "Other Obligations" or "Other Obligation" means a bond, a note, or other similar instrument issued by an issuing body for any the purposes stated in § 1802 of this title.

Section 2. Amend §1802, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1802. Special taxes authorized; purpose; requirements and restrictions.

(a)(1) ~~Subject to the provisions of this section, and for the~~ For any purpose stated in subsection (b)(1) or (2) of this section, any municipality may:

~~(1)~~(i) Create a special development district;

~~(2)~~(ii) Levy ad valorem or special taxes; and

~~(3)~~(iii) Issue bonds and other obligations.

(2) For any purpose stated in subsection (b)(3) of this section, any municipality may:

(i) Create a special development district;

(ii) Levy ad valorem or special taxes; and

(iii) pledge funds under an agreement described in subsection (b)(3) of this section to secure payment on Other Obligations.

(b) The purpose of the authority granted under subsection (a) of this section is ~~to provide financing, refinancing, or reimbursement for~~:

(1) ~~The~~ To provide financing, refinancing, or reimbursement for the cost of the design, construction, establishment, extension, alteration or acquisition of adequate storm drainage systems, sewers, water systems, roads, bridges, culverts, tunnels, streets, sidewalks, lighting, parking, parks and recreation facilities, libraries, schools, transit facilities, solid waste facilities and other infrastructure improvements as necessary, whether situated within the special development district or outside the special development district if the infrastructure improvement provides service or benefit to the property within the special development district, for the development and utilization of the land, each with respect to any defined geographic region within the municipality; ~~and~~

(2) To ~~pay~~ provide financing, refinancing, or reimbursement for the costs associated with tax increment financing undertaken with respect to TIF Districts pursuant to Chapter 17 of this title~~.~~; and

(3) To pledge under a written agreement the ad valorem or special taxes levied under this chapter to secure the payment, or reimbursement of a payment, of Other Obligations. Such agreement shall be between the municipality and the issuing body, and shall run to the benefit of and be enforceable on behalf of any holder, of Other Obligations.

Section 3. Amend §1803, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1803. ~~Issuance and sale of bonds~~Authority granted; section self-executing.

(a) In addition to other powers any municipality may have, and notwithstanding the provisions of any other public local law, or public general law, or the charter of any municipality, a municipality may borrow money by

issuing and selling bonds ~~for the purpose~~, or impose ad valorem or special taxes under this chapter for any of the purposes stated in § 1802(b) of this title, if a request to the municipality is made by both:

Section 4. Amend §1804, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1804. Bond payable from special fund; complementary powers of governing body; proceeds.

(3) Payment of the principal and interest on loans, including developer loans, money advances or any indebtedness for any of the purposes stated in § 1802(b)(1) and (2) of this title, including the refunding of bonds previously issued under this section;

Section 5. Amend §1805(a), Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1805. ~~Actions necessary before issuing bonds.~~Special fund.

(a) ~~Before issuing bonds pursuant to this section~~ By resolution, the governing body of the municipality ~~shall~~ may:

(1) Designate by resolution an area or areas within the municipality as a special development district even though no bonds authorized by this chapter have been issued by the municipality with respect to that special development district or are then outstanding;

(2) Subject to subsection (b) of this section, adopt a resolution creating a special fund with respect to the special development district; and

(3) Provide for the levy of an ad valorem or special tax on all real property within the special development district at a rate or amount designed to provide adequate revenues to pay the principal of, interest on, and redemption premium, if any, on the bonds, to replenish any debt service reserve fund, ~~and~~ for any other purpose related to the ongoing expenses of or security, including debt service coverage requirements, for the bonds, or to secure payment by the municipality of its obligations under an agreement described in § 1802(b)(3) of this title. Ad valorem taxes shall be levied in the same manner, upon the same assessments, for the same period or periods, and as of the same date or dates of finality as are now or may hereafter be prescribed for general ad valorem real property tax purposes within the district, and shall be discontinued when all of the bonds have been paid in full. Special taxes shall be levied pursuant to § 1813 of this title.

Section 6. Amend §1806, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1806. When no bonds or Other Obligations outstanding.

(a) When no bonds are outstanding, the municipality may use money in the special fund for payment or reimbursement of debt service on Other Obligation that the municipality is obligated to pay under an agreement described in § 1802(b)(3).

(b) When no bonds are outstanding with respect to a special development district and no Other Obligations are outstanding:

(1) The special development district shall be terminated; and

(2) Any moneys remaining in the special fund on the date of termination of the special development district shall be paid to the general fund of the municipality~~, as the case may be~~.

Section 7. Amend Chapter 18, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1816. Limitation on ad valorem or special taxes within a Special Development District.

The levy of an ad valorem or special tax pursuant to § 1802(a) or § 1813(a) of this chapter shall not be applicable to and shall not be imposed on special betterments property as defined in § 8101(e) of Title 9 owned or leased by a public utility as defined in § 102(2) of Title 26.

Section 8. Amend Chapter 18, Title 22 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1817. Special Provision Applicable to the City of Dover, Delaware.

Notwithstanding § 1807(c)(2) of this chapter, before the City of Dover may establish a special development district under this chapter, all of the owners of real property in the proposed special development district shall request the City of Dover to establish the special development district.

Section 9. This Act shall become effective upon its enactment into law