

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 904 Session of
2007

INTRODUCED BY FREEMAN, O'NEILL, GRUCELA, ROSS, LEACH, HARPER,
TANGRETTI, PETRI, BARRAR, BISHOP, CALTAGIRONE, CARROLL,
CLYMER, COHEN, CURRY, DALEY, FABRIZIO, GALLOWAY, GINGRICH,
HORNAMAN, KORTZ, MACKERETH, MANDERINO, MARSHALL, MELIO,
R. MILLER, MURT, M. O'BRIEN, PETRONE, SCHRODER, STABACK,
SWANGER, VITALI, WATSON AND YOUNGBLOOD, MARCH 22, 2007

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 22, 2007

AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,
2 as amended, "An act to empower cities of the second class A,
3 and third class, boroughs, incorporated towns, townships of
4 the first and second classes including those within a county
5 of the second class and counties of the second through eighth
6 classes, individually or jointly, to plan their development
7 and to govern the same by zoning, subdivision and land
8 development ordinances, planned residential development and
9 other ordinances, by official maps, by the reservation of
10 certain land for future public purpose and by the acquisition
11 of such land; to promote the conservation of energy through
12 the use of planning practices and to promote the effective
13 utilization of renewable energy sources; providing for the
14 establishment of planning commissions, planning departments,
15 planning committees and zoning hearing boards, authorizing
16 them to charge fees, make inspections and hold public
17 hearings; providing for mediation; providing for transferable
18 development rights; providing for appropriations, appeals to
19 courts and penalties for violations; and repealing acts and
20 parts of acts," adding provisions to authorize temporary
21 development moratorium.

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

24 Section 1. The act of July 31, 1968 (P.L.805, No.247), known
25 as the Pennsylvania Municipalities Planning Code, reenacted and

1 amended December 21, 1988 (P.L.1329, No.170), is amended by
2 adding an article to read:

3 ARTICLE VIII-B

4 Temporary Development Moratorium

5 Section 801-B. Definitions.

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

9 "Essential public facilities." Public infrastructure
10 services, fire protection services, police protection services,
11 emergency medical services or any other service required to
12 protect the health and safety of the residents of a
13 municipality.

14 Section 802-B. Development moratorium authorized.

15 The governing body of a municipality may place a moratorium
16 of limited duration on new development by enacting, pursuant to
17 this article, an ordinance to temporarily suspend the acceptance
18 of applications for development in order to permit enactment or
19 revision of a comprehensive plan, a subdivision and land
20 development ordinance or a zoning ordinance.

21 Section 803-B. Findings of need.

22 (a) General rule.--Prior to adopting an ordinance under
23 section 802-B, the governing body, taking into consideration the
24 existing and future needs of the municipality, shall make
25 written findings of need, based upon reasonably available
26 information, that the enactment or revision of a comprehensive
27 plan, a subdivision and land development ordinance or a zoning
28 ordinance:

29 (1) will improve the health, safety or environment of
30 the people of the municipality and otherwise promote the

1 purposes of this act; and

2 (2) is necessary for any of the following reasons:

3 (i) to prevent the shortage or overburdening of
4 essential public facilities that would otherwise occur
5 during the effective period of the moratorium or that is
6 reasonably foreseeable as a result of any proposed or
7 anticipated development; or

8 (ii) to prevent serious public harm from
9 residential, commercial or industrial development in the
10 municipality because of the absence or inadequacy of an
11 existing comprehensive plan or a subdivision and land
12 development ordinance or a zoning ordinance.

13 (b) Limitation.--The governing body shall include with its
14 written findings of need an additional finding that the term of
15 the moratorium, as evidenced by a proposed schedule for
16 achieving its objectives, will be sufficiently limited to ensure
17 that the supply of affected housing types and of commercial and
18 industrial facilities within the municipality are not
19 unreasonably restricted.

20 (c) Public notice and hearing.--Before making the findings
21 required by this section, the governing body, pursuant to public
22 notice, shall hold a public hearing on the question of whether a
23 temporary development moratorium is needed for the reasons set
24 forth in subsection (a).

25 (d) Time.--Findings under this section shall be made by the
26 governing body no later than 15 days after the public hearing
27 held in accordance with subsection (c).

28 Section 804-B. Enactment.

29 (a) Hearing.--After making the written findings required by
30 section 803-B and before voting on the enactment of an ordinance

1 authorized in section 802-B, the governing body shall hold a
2 public hearing on the enactment of a temporary moratorium
3 ordinance, pursuant to public notice.

4 (b) Additional notice requirements.--In addition to the
5 required contents of a public notice as defined in section
6 107(a), the notice required under this section shall contain the
7 following:

8 (1) A statement that the written findings required under
9 section 803-B have been made and that they are available at
10 the municipal offices during regular business hours for
11 inspection by any citizen.

12 (2) A statement, if applicable, that the governing body
13 of the municipality has elected to impose a preordinance
14 temporary moratorium on new development by suspending the
15 acceptance of applications for development in accordance with
16 subsection (e) and the date on which this temporary
17 moratorium shall begin.

18 (c) Time.--The vote on the enactment by the governing body
19 shall be within 60 days after the first publication required for
20 public notice in accordance with this section.

21 (d) County planning agency.--Within 30 days after enactment,
22 a copy of the ordinance shall be forwarded to the county
23 planning agency or in a county where no planning agency exists,
24 to the governing body of the county in which the municipality is
25 located.

26 (e) Preordinance temporary moratorium.--At least ten days
27 after the first publication required for public notice of the
28 proposed ordinance, a municipality may impose a preordinance
29 temporary moratorium by suspending the acceptance of
30 applications for development. A suspension under this subsection

1 may not exceed 50 days. A suspension under this subsection shall
2 be in addition to any suspension authorized by section 805-B(a)
3 or (b).

4 Section 805-B. Term.

5 (a) Authorization.--An ordinance adopted under the authority
6 of section 802-B may authorize the temporary suspension of the
7 acceptance of applications for development for a period not to
8 exceed one year, except as provided in subsection (b) and
9 section 804-B(e).

10 (b) Extension.--A development moratorium adopted under the
11 authority of section 802-B may be extended, by ordinance, for an
12 additional 180-day period if the following conditions are met:

13 (1) The governing body finds that the findings made
14 pursuant to section 803-B still apply and that reasonable
15 progress is being made to enact or revise a comprehensive
16 plan, a subdivision and land development ordinance, or a
17 zoning ordinance.

18 (2) Before making the findings required by this
19 subsection, the governing body holds a public hearing on the
20 enactment of an ordinance to extend the moratorium.

21 Section 806-B. Waiver.

22 (a) Application.--A landowner or developer may apply for a
23 waiver from a moratorium imposed under this article.

24 (b) Grant of application.--

25 (1) A waiver shall be granted if the landowner or
26 developer presents evidence from which the governing body,
27 after holding a hearing pursuant to subsection (d), concludes
28 that:

29 (i) Special or unique circumstances exist so that
30 application of the moratorium to the development in

1 question would create an unnecessary hardship on the
2 landowner or developer.

3 (ii) Granting the waiver would not significantly
4 compromise the goals sought to be achieved by the
5 adoption or revision of the comprehensive plan,
6 subdivision and land development ordinance or zoning
7 ordinance.

8 (2) In granting a waiver in accordance with this
9 section, the governing body may set conditions on any
10 approval that may be granted, including limiting the waiver
11 so that the relief granted is the minimum necessary to
12 alleviate the hardship.

13 (c) Requirements.--A waiver application shall be in writing
14 and submitted to the governing body.

15 (d) Hearing.--The governing body shall hold a hearing on the
16 application for a waiver within 15 days from the date of the
17 applicant's request and shall make a determination on the waiver
18 application within 30 days after receiving the written request.

19 (e) Notice requirements.--In lieu of any other public notice
20 requirements contained in this act or any other law, the
21 governing body shall advertise a hearing required pursuant to
22 subsection (d) at least seven days prior to the date of the
23 hearing by placing notice in at least one newspaper of general
24 circulation in the area in which the development would occur.

25 Section 2. This act shall take effect in 60 days.