

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 642 Session of  
2003

INTRODUCED BY FRANKEL, SAYLOR, BAKER, BEBKO-JONES, BELARDI,  
BROWNE, CAWLEY, CLYMER, CORRIGAN, COSTA, COY, CURRY, DALEY,  
DeLUCA, DeWEESE, EACHUS, FREEMAN, GEORGE, GINGRICH, GORDNER,  
HARHAI, HARPER, HENNESSEY, HERSHEY, HORSEY, JOSEPHS, KELLER,  
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READSHAW, ROSS, RUBLEY, SANTONI, SATHER, SCRIMENTI, SOLOBAY,  
STABACK, SURRA, TANGRETTI, THOMAS, TIGUE, WALKO, WANSACZ,  
WASHINGTON, YOUNGBLOOD AND YUDICHAK, MARCH 4, 2003

REFERRED TO COMMITTEE ON COMMERCE, MARCH 4, 2003

AN ACT

1 Amending the act of May 17, 1956 (1955 P.L.1609, No.537),  
2 entitled "An act to promote the welfare of the people of the  
3 Commonwealth by the reduction of unemployment in certain  
4 areas of the Commonwealth determined to be critical economic  
5 areas; providing for the establishment of industrial  
6 development projects in such areas; creating The Pennsylvania  
7 Industrial Development Authority as a body corporate and  
8 politic with power to allocate funds for and make secured  
9 loans to industrial development agencies for the payment of a  
10 part of the cost of industrial development projects in  
11 critical economic areas; authorizing the Authority to enter  
12 into agreements with the Government of the United States or  
13 any Federal agency or industrial development agency;  
14 empowering the Authority to take title to, sell, convey and  
15 lease industrial development projects where necessary to  
16 protect loans made by the Pennsylvania Industrial Development  
17 Authority on industrial development projects; providing that  
18 no debt of the Commonwealth, its municipalities or political  
19 subdivisions shall be incurred in the exercise of any powers  
20 granted by this act; and providing for the examination of the  
21 accounts and affairs of the Authority; and making an  
22 appropriation," including biotechnology enterprises and small  
23 business incubators within the scope of the act; and further  
24 regulating loans to industrial development agencies.

25 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. The last paragraph of section 2 of the act of May  
3 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania  
4 Industrial Development Authority Act, amended July 10, 1963  
5 (P.L.221, No.125), is amended to read:

6 Section 2. Findings and Declaration of Policy.--It is hereby  
7 determined and declared as a matter of legislative finding--

8 \* \* \*

9 Therefore, it is hereby declared to be the policy of the  
10 Commonwealth of Pennsylvania to promote the health, safety,  
11 morals, right to gainful employment, business opportunities and  
12 general welfare of the inhabitants thereof by the creation of a  
13 body corporate and politic to be known as "The Pennsylvania  
14 Industrial Development Authority" which shall exist and operate  
15 for the public purpose of alleviating unemployment with its  
16 resulting spread of indigency and economic stagnation by the  
17 promotion and development of industrial and manufacturing  
18 enterprises [and], research and development facilities,  
19 biotechnology enterprises and small business incubators in those  
20 areas of the Commonwealth in which conditions of critical  
21 unemployment currently or may from time to time exist. Such  
22 purposes are hereby declared to be public purposes for which  
23 public money may be spent.

24 Section 2. Section 3(i) of the act, amended June 16, 1972  
25 (P.L.475, No.153), is amended and the section is amended by  
26 adding clauses to read:

27 Section 3. Definitions.--The following terms, whenever used  
28 or referred to in this act, shall have the following meanings,  
29 except in those instances where the context clearly indicates  
30 otherwise:

1       \* \* \*

2       (i) The term "industrial development project" shall mean any  
3 land, site, structure, facility or undertaking comprising or  
4 being connected with or being a part of (i) an industrial  
5 enterprise, (ii) a manufacturing enterprise, (iii) a research  
6 and development enterprise, [or] (iv) an agricultural  
7 enterprise, (v) a biotechnology enterprise, or (vi) a small  
8 business incubator established or to be established by an  
9 industrial development agency in a critical economic area.

10       \* \* \*

11       (v) The term "biotechnology enterprise" shall mean an  
12 enterprise which is engaged in the research, development,  
13 production or provision of biotechnology for the purpose of  
14 developing or providing products, processes or technologies for  
15 specific commercial or public purposes, including, but not  
16 limited to, medical, pharmaceutical, nutritional and other  
17 health-related purposes, agricultural purposes and environmental  
18 purposes, or engaged in providing services or products necessary  
19 for such research, development, product or provision of service,  
20 and which enterprise requires substantial capital by virtue of  
21 its technological needs and creates or will create substantial  
22 employment opportunities by its nature and technological needs.

23       (w) The term "small business incubator" shall mean a  
24 facility in which small units of space may be leased by a tenant  
25 and in which management maintains or provides access to business  
26 development services for use by tenants.

27       Section 3. Section 5(b) of the act, amended July 10, 1963  
28 (P.L.221, No.125), is amended to read:

29       Section 5. Powers of the Authority; General.--The Authority,  
30 as a public corporation and governmental instrumentality

1 exercising public powers of the Commonwealth, is hereby granted  
2 and shall have and may exercise all powers necessary or  
3 appropriate to carry out and effectuate the purposes of this  
4 act, including the following powers, in addition to others  
5 herein granted:

6 \* \* \*

7 (b) To co-operate with industrial development agencies in  
8 their efforts to promote the expansion of industrial,  
9 manufacturing [and], research and development, biotechnology and  
10 small business incubator activity in critical economic areas;

11 \* \* \*

12 Section 4. Section 6(a) of the act, amended July 13, 1988  
13 (P.L.534, No.95), is amended to read:

14 Section 6. Powers of the Authority; Loans to Industrial  
15 Development Agencies.--When it has been determined by the  
16 Authority upon application of an industrial development agency  
17 and hearing thereon in the manner hereinafter provided, that the  
18 establishment of a particular industrial development project of  
19 such industrial development agency in a critical economic area  
20 has accomplished or will accomplish the public purposes of this  
21 act, the Authority may contract to loan such industrial  
22 development agency an amount not in excess of the percentage of  
23 the cost of such industrial development project, as established  
24 or to be established as hereinafter set forth, subject, however,  
25 to the following conditions:

26 (a) Industrial development projects to be established:

27 (1) If the industrial development project is exclusively a  
28 research and development facility other than research and  
29 development of pollution control technology, the Authority may,  
30 in each class of critical economic area, contract to loan the

1 industrial development agency (45%) of the cost of such  
2 industrial development project if it has determined that the  
3 industrial development agency holds funds or property in an  
4 amount or value equal to not less than (5%) of the cost of  
5 establishing the industrial development project, which funds or  
6 property are available for and shall be applied to the  
7 establishment of such project. If the industrial development  
8 project is exclusively a research and development facility for  
9 technology concerning pollution control, the Authority may  
10 contract to loan the industrial development agency in critical  
11 economic area A an amount not in excess of (55%) and in a  
12 critical economic area B or a critical economic area C an amount  
13 not in excess of (50%) of the cost of the industrial development  
14 project: Provided, however, That in each such instance, the  
15 Authority has determined that the industrial development agency  
16 holds funds or property in an amount or value equal to not less  
17 than (5%) of the cost of establishing the industrial development  
18 project, which funds or property are available for and shall be  
19 applied to the establishment of such project.

20 (2) If the industrial development project is any other type  
21 of industrial development project than exclusively a research  
22 and development facility, the Authority may, in critical  
23 economic area A contract to loan the industrial development  
24 agency an amount not in excess of (40%) of the cost of such  
25 industrial development project if it has determined that the  
26 industrial development agency holds funds or property in an  
27 amount or value equal to not less than (10%) of the cost of  
28 establishing the industrial development project, which funds or  
29 property are available for and shall be applied to establishment  
30 of such project.

1       (2.1) Where a contract to loan to an industrial development  
2 agency is to be made under provisions of this subsection (a),  
3 the following shall apply: that, in critical economic areas A, B  
4 or C where an average of (8%) or more of the labor force has  
5 been unemployed for the preceding calendar year, the Authority  
6 may contract to loan the industrial development agency an amount  
7 not in excess of (50%) of the cost of an industrial development  
8 project and an amount not in excess of (60%) of the cost of an  
9 industrial development project wherein the responsible buyer or  
10 tenant is a small business on the date of the application; and  
11 where an average of (10%) or more of the labor force has been  
12 unemployed for the preceding calendar year, the Authority may  
13 contract to loan the industrial development agency an amount not  
14 in excess of (60%) of the cost of an industrial development  
15 project and an amount not in excess of (70%) of the cost of an  
16 industrial development project wherein the responsible buyer or  
17 tenant is a small business on the date of application; further,  
18 provided that in each such instance the industrial development  
19 agency project percentage shall be removed. Where a contract to  
20 loan to an industrial development agency is to be made under the  
21 provisions of this subsection (a), the following shall apply:  
22 that, in critical economic areas A, B or C where an average of  
23 (4%) or more of the labor force has been unemployed for the  
24 preceding calendar year, the Authority may contract to loan the  
25 industrial development agency an amount not in excess of (40%)  
26 of the cost of an industrial development project wherein the  
27 responsible buyer or tenant is a small business and where an  
28 average of (6%) or more of the labor force has been unemployed  
29 for the preceding calendar year, the Authority may contract to  
30 loan the industrial development agency an amount not in excess

1 of (50%) of the cost of an industrial development project  
2 wherein the responsible buyer or tenant is a small business and  
3 in such latter instance the industrial development agency  
4 project percentage shall be removed.

5 (3) If the industrial development project is any other type  
6 of industrial development project than exclusively a research  
7 and development facility, the Authority may, in critical  
8 economic areas B and C, contract to loan the industrial  
9 development agency an amount not in excess of (30%) of the cost  
10 of such industrial development project if it has determined that  
11 the industrial development agency holds funds or property in an  
12 amount or value equal to not less than (20%) of the cost of  
13 establishing the industrial development project, which funds or  
14 property are available for or shall be applied to the  
15 establishment of such project.

16 (4) Prior to the making of any loan under this subsection  
17 (a), the Authority shall have determined that the industrial  
18 development agency has obtained from other independent and  
19 responsible sources, such as banks and insurance companies or  
20 otherwise, a firm commitment for all other funds, over and above  
21 the loan of the Authority and such funds or property as the  
22 industrial development agency may hold, necessary for payment of  
23 all of the cost of establishing the industrial development  
24 project, and that the sum of all these funds, together with the  
25 machinery and equipment to be provided by the responsible tenant  
26 or responsible buyer, is adequate for the completion and  
27 operation of the industrial development project.

28 (5) If the industrial development project is a biotechnology  
29 enterprise or if it is a small business incubator, the Authority  
30 may contract to loan the industrial development agency an amount

1 not in excess of (40%) of the cost of such industrial  
2 development project if it has determined that the industrial  
3 development agency holds funds or property in an amount or value  
4 equal to not less than (5%) of the cost of establishing the  
5 industrial development project, which funds or property are  
6 available for and shall be applied to establishment of such  
7 project.

8 (6) If the industrial development project is a biotechnology  
9 project and otherwise would not qualify based upon existing and  
10 projected revenues, the Authority may contract to loan the  
11 industrial development agency an amount not in excess of (40%)  
12 of the cost of such industrial development project if it has  
13 determined that the biotechnology enterprise has at least one  
14 million dollars (\$1,000,000) in unencumbered assets and if it  
15 has determined that the industrial development agency holds  
16 funds or property in an amount or value equal to not less than  
17 (5%) of the cost of establishing the industrial development  
18 project, which funds or property are available for and shall be  
19 applied to establishment of such project.

20 \* \* \*

21 Section 5. Section 7(a) of the act, amended July 10, 1963  
22 (P.L.221, No.125), is amended to read:

23 Section 7. Loan Application Requirements.--Prior to the  
24 loaning of any funds to an industrial development agency for an  
25 industrial development project in a critical economic area, the  
26 Authority shall receive from such industrial development agency  
27 a loan application in form adopted by the Authority which shall  
28 contain, without being limited to, the following provisions:

29 (a) A general description of the industrial development  
30 project and a general description of the industrial or



1 manufacturing enterprise [or], research and development  
2 facility, biotechnology enterprise or small business incubator  
3 for which the industrial development project has been or is to  
4 be established;

5 \* \* \*

6 Section 6. This act shall take effect in 60 days.