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DOMBROWSKI, BURD, SERAFINI AND HALVERSON, JULY 11, 1979

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, JULY 11, 1979

AN ACT

1 Establishing a State corporation to foster industrial and
2 commercial and technological development to develop
3 employment opportunities and making an appropriation.

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1 Section 15. Effective date.

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

4 Section 1. Short title.

5 This act shall be known and may be cited as the "Pennsylvania
6 Employment Opportunities Improvement Act."

7 Section 2. Legislative purpose.

8 The General Assembly finds and declares that there exists in
9 Pennsylvania a significant need for industrial and commercial
10 development and activity in order to provide and increase
11 employment opportunities and tax revenues; that assistance and
12 encouragement of industrial and commercial development to
13 provide and increase such employment opportunities and revenues
14 is an important function of the State government that the
15 availability of financial assistance is an important inducement
16 to industrial and commercial enterprises to remain or locate in
17 this State; that there exists in the State a serious shortage of
18 venture capital to promote the development and exploitation of
19 invention and new products; that this shortage has resulted and
20 will result in a serious decrease in the development of new
21 business enterprise and job opportunities in Pennsylvania; and,
22 further, that providing State financial assistance for the
23 development of products, innovation and invention for industry
24 in this State will assist in the creation of new products and
25 industry in this State, resulting in increased employment and
26 public revenues; and, therefore, the necessity in the public
27 interest and for the public benefit and good for the provisions
28 of this act is hereby declared as a matter of legislative
29 determination.

30 Section 3. Definitions.

1 The following words and phrases when used in this act shall
2 have, unless the context clearly indicates otherwise, the
3 meanings given to them in this section:

4 "Corporation." The Pennsylvania Product Development
5 Corporation as created under section 4.

6 "Financial aid." The infusion of risk capital to persons for
7 use in the development and exploitation of specific inventions
8 and products.

9 "Invention." Any new products, new process or new technique
10 without regard to whether a patent has or could be granted.

11 "Person." Any individual, partnership, corporation or joint
12 venture carrying on business, or proposing to carry on business,
13 within the State.

14 "Product." Any product, device, technique or process, which
15 is or may be exploitable commercially; such term shall not refer
16 to pure research but shall be construed to apply to such
17 products, devices, techniques or processes which have advanced
18 beyond the theoretic stage and are readily capable of being, or
19 has been, reduced to practice.

20 "Venture." Without limitation, any contractual arrangement
21 with any person whereby the corporation obtains rights from or
22 in an invention or product or proceeds therefrom in exchange for
23 the granting of financial aid to such person.

24 Section 4. Corporation established.

25 (a) There is hereby created a nonprofit body corporate to be
26 known as the "Pennsylvania Product Development Corporation."
27 Such corporation is constituted a quasi-public instrumentality
28 and the exercise by the corporation of the powers conferred in
29 this act shall be deemed and held to be the performance of an
30 essential public function.

1 (b) The corporation shall be governed by a board of six
2 directors to be appointed by the Governor, at least four of whom
3 shall be knowledgeable and have favorable reputations for skill,
4 knowledge and experience, in the areas of the development of
5 technological invention. On or before May 1, 1980, the Governor
6 shall so appoint six members of said board, two to serve for two
7 years, two for four years and two for six years from July 1,
8 1980. On or before May 1 of the even-numbered years thereafter,
9 the Governor shall so appoint directors to succeed those whose
10 terms expire for terms of six years from July 1 in the year of
11 their appointment and until their successors have been
12 appointed. A director shall be eligible for reappointment. The
13 Governor shall fill any vacancy for the unexpired term.

14 (c) The directors shall annually elect one of the number as
15 chairman and one as secretary. The board may elect such other
16 officers of the board as it deems proper. Members shall receive
17 no compensation for the performance of their duties hereunder
18 but shall be reimbursed for necessary expenses incurred in the
19 performance thereof.

20 (d) Each director of the corporation before entering upon
21 his duties shall take and subscribe the oath or affirmation
22 required by Article VI of the Constitution. A record of each
23 such oath of affirmation shall be filed in the office of the
24 Secretary of State.

25 Section 5. Operation of corporation.

26 The corporation shall have perpetual succession and shall
27 adopt, amend and repeal bylaws and regulations for the conduct
28 of its affairs. The operations of the corporation shall be
29 designed to accomplish the legislative purposes set forth in
30 this act. Such succession shall continue until the existence of

1 the corporation is terminated by law, provided no such
2 termination shall affect any outstanding contractual obligation
3 of the corporation to assist any person and the State shall
4 succeed to the obligations of the corporation under such
5 contract. Upon termination of the corporation its rights and
6 properties shall pass to the State.

7 Section 6. Powers and duties.

8 The powers of the corporation shall be vested in and
9 exercised by the board of directors. Four members of the board
10 shall constitute a quorum and the affirmative vote of a majority
11 of the members present at a meeting of the board shall be
12 necessary and sufficient for any action taken by the board. No
13 vacancy in the membership of the board shall impair the right of
14 a quorum to exercise all the rights and perform all the duties
15 of the board. Any action taken by the board may be authorized by
16 resolution at any regular or special meeting and shall take
17 effect immediately unless otherwise provided in the resolution.
18 Notice of any meeting, whether special or regular, shall be
19 given by telephone or orally, not less than 48 hours prior to
20 the meeting. The board may delegate to one or more of its
21 members, or its officers, agents and employees such powers and
22 duties as it may deem proper.

23 Section 7. Corporation president.

24 The board shall appoint a president of the corporation who
25 shall not be a member of the board and who shall serve at the
26 pleasure of the board and shall receive such compensation as
27 shall be determined by the board. The president shall be the
28 chief administrative and operational officer of the corporation
29 and shall direct and supervise administrative affairs and the
30 general management of the corporation. The president may be a

1 State employee performing these functions part time for the
2 first two years of operation of the corporation. The president
3 may employ such other employees as shall be designated by the
4 board of directors; shall attend all meetings of the board; keep
5 a record of all proceedings and maintain and be custodian of all
6 books, documents and papers filed with the corporation and of
7 the minute book of the corporation and of its official seal. He
8 may cause copies to be made of all minutes and other records and
9 documents of the corporation and may give certificates under the
10 official seal of the corporation to the effect that such copies
11 are true copies and all persons dealing with the corporation may
12 rely upon such certificates.

13 Section 8. Corporate purpose.

14 The purpose of the corporation shall be to stimulate and
15 encourage the development of new products within Pennsylvania by
16 the infusion of financial aid for invention and innovation in
17 situations in which such financial aid would not otherwise be
18 reasonably available from commercial sources and for this
19 purpose the corporation shall have the following powers:

20 (1) To have perpetual succession as a body corporate and
21 to adopt bylaws, policies and procedures for the regulation
22 of its affairs and conduct of its businesses as provided in
23 section 5.

24 (2) To enter into venture agreements with persons doing
25 business in Pennsylvania, upon such terms and on such
26 conditions as are consistent with the purposes of this act,
27 for the advancement of financial aid to such persons for the
28 development of specific products, procedures and techniques,
29 to be developed and produced in this State and to condition
30 such agreements upon contractual assurances that the benefits

1 of increasing employment and tax revenues shall accrue to
2 this State and shall remain in it for a sufficient time
3 period to justify the State's involvement.

4 (3) To receive and accept loans, aid or contributions
5 from any source of money, property or labor or other things
6 of value, to be held, used and applied to carry out the
7 purposes of this act, subject to the conditions upon which
8 such grants and contributions may be made, including but not
9 limited to, gifts or grants from any department or agency of
10 the United States or the State.

11 (4) To acquire, lease, purchase, manage, hold and
12 dispose of real and personal property in the State of
13 Pennsylvania and lease, convey or deal in or enter into
14 contracts with respect to such property on any terms
15 necessary or incidental to the carrying out of these
16 purposes.

17 (5) To borrow money to the extent permitted under this
18 act.

19 (6) To hold patents, copyrights, trademarks or any other
20 evidences of protection of exclusivity as to any products as
21 defined herein, issued under the laws of the United States or
22 any state or any nation.

23 (7) To employ such assistants, agents and other
24 employees, who shall be State employees in the unclassified
25 service and to engage consultants and appraisers as may be
26 necessary or desirable to carry out its purposes in
27 accordance with this act.

28 (8) To make and enter into all contracts and agreements
29 necessary or incidental to the performance of its duties and
30 the execution of its powers under this act.

1 (9) To sue and be sued, plead and be impleaded, adopt a
2 seal and alter the same at pleasure.

3 (10) To invest with the approval of the State Treasurer,
4 any funds not needed for immediate use or disbursement,
5 including any funds held in reserve, in obligations issued or
6 guaranteed by the United States of America or the
7 Commonwealth of Pennsylvania and in other obligations which
8 are legal investments for banks in this State.

9 (11) To procure insurance against any loss in connection
10 with its property and other assets in such amounts and from
11 such insurers as it deems desirable.

12 (12) To the extent permitted under its contract with
13 other persons, to consent to any termination, modification,
14 forgiveness or other change of any term of any contractual
15 right, payment, royalty, contract or agreement of any kind to
16 which the corporation is a party.

17 (13) To invest and reinvest the funds of the corporation
18 including the returns of prior investment in projects
19 furthering the purposes of this act.

20 (14) To do all acts and things necessary and convenient
21 to carry out the purposes of this act.

22 Section 9. Application for financial aid.

23 All applications for financial aid shall be forwarded,
24 together with an application fee prescribed by the corporation,
25 to the president of the corporation. The president, after
26 preparing necessary records for the corporation, shall forward
27 each application to the staff of the corporation, for an
28 investigation and report concerning any other factors deemed
29 relevant by the corporation. Such investigation and report shall
30 include, but shall not be limited to, such facts about the

1 company under consideration as its history, wage standards, job
2 opportunities, stability of employment, past and present
3 financial condition and structure, pro forma income statements,
4 present and future markets and prospects, integrity of
5 management as well as the feasibility of the proposed product
6 and invention to be granted financial aid, including the state
7 of development of such product as well as the likelihood of its
8 commercial feasibility. After receipt and consideration of the
9 above report and after such other action as is deemed
10 appropriate, the corporation shall approve or deny the
11 application. The applicant shall be promptly notified of such
12 action by the corporation. Such approval shall be conditioned
13 upon payment to the corporation, within such reasonable time
14 after notification of approval as may be specified by the
15 corporation, of a commitment fee prescribed by the corporation.
16 Section 10. Appropriation.

17 (a) The sum of \$1,000,000 is hereby specifically
18 appropriated to the Pennsylvania Industrial Development
19 Authority for the sole and specific purpose of a loan to the
20 nonprofit corporation established by this act.

21 (b) The Pennsylvania Industrial Development Authority shall
22 authorize this loan whereupon the corporation may requisition
23 such amount from the Industrial Development Fund as may be
24 necessary to provide adequate funds to carry out the purposes of
25 this act. It is the intent of this act that the funds hereby
26 appropriated shall be set aside as a separate revolving fund in
27 the Industrial Development Fund, and the repayment of the loans
28 made by the Pennsylvania Industrial Development Authority shall
29 be credited to such separate revolving fund and if available
30 under the terms of the loan, made available for further

1 investment pursuant to the terms of this act.

2 (c) The said loan by the Pennsylvania Industrial Development
3 Authority shall be without interest and shall not require
4 repayment until the operations of this corporation have produced
5 sufficient additional capital for this corporation to carry out
6 the purposes of this act without the use of the funds produced
7 by said loan.

8 Section 11. Annual report.

9 On September 1 of each year the corporation shall report on
10 its operations for the preceding fiscal year to the Governor.
11 Such report shall include a summary of the activities of the
12 corporation and a complete operating and financial statement.
13 The corporation shall be subject to examination by the
14 Department of the Auditor General. The accounts of the
15 corporation shall be subject to annual audits by the Department
16 of the Auditor General.

17 Section 12. Nonintervention clause.

18 The Commonwealth of Pennsylvania does hereby pledge to and
19 agree with any person with whom the corporation may enter into
20 contracts pursuant to the provisions of this act, that the
21 Commonwealth will not limit or alter the rights hereby vested in
22 the corporation until such contracts and the obligations
23 thereunder are fully met and performed on the part of the
24 corporation, provided nothing herein contained shall preclude
25 such limitation or alteration if adequate provision shall be
26 made by law for the protection of such persons entering into
27 contracts with the corporation.

28 Section 13. Construction.

29 The powers enumerated in this act shall be interpreted
30 broadly to effectuate the purposes thereof and shall not be

1 construed as a limitation of powers.

2 Section 14. Tax exempt.

3 The corporation shall be and is hereby declared tax exempt
4 from all franchise, corporate business and income taxes levied
5 by the State, provided nothing herein shall be construed to
6 exempt from any such taxes, or from any taxes levied in
7 connection with the manufacture or sale of any products which
8 are the subject of any agreement made by the corporation, any
9 person entering into any agreement with the corporation.

10 Section 15. Effective date.

11 This act shall take effect in 60 days.