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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 2437

Session of  
1980

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REFERRED TO COMMITTEE ON MINES AND ENERGY MANAGEMENT,  
APRIL 1, 1980

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AN ACT

1 Providing for energy conservation and management, establishing  
2 the Pennsylvania State Energy Office, providing for its  
3 powers and duties, and creating an Energy Advisory Council.

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1 persons engaged in the exploration, extraction, transportation,  
2 transmission, refining, processing, generation, distribution,  
3 sale or storage of energy strictly for use in their own  
4 manufacturing processes.

5 "Energy information." Any statistic, datum, fact, or item of  
6 knowledge and all combinations thereof relating to energy.

7 "Energy office" or "office." The Pennsylvania State Energy  
8 Office.

9 "Fuel." Coal, petroleum products, gases and nuclear fuel,  
10 including enriched uranium, U235 and U238, and plutonium, U239.

11 "Gases." Natural gas, methane, liquified natural gas,  
12 synthetic natural gas, coal gas and other manufactured gases.

13 "Marketing or trade secret." The whole or any portion or  
14 phase of any scientific, technical, confidential business or  
15 financial or otherwise proprietary information, design, process,  
16 procedure, formula or improvement which is used in one's  
17 business and is secret and of value. A trade secret shall be  
18 presumed to be secret when the owner takes measures to prevent  
19 it from becoming available to persons other than those selected  
20 by the owner to have access thereto for limited purposes.

21 "Person."

22 (1) Individuals, partnerships or associations other than  
23 corporations, and includes their lessees, assignees,  
24 trustees, receivers, executors, administrators or other  
25 successors in interest.

26 (2) All bodies corporate, joint-stock companies or  
27 associations, domestic or foreign, their lessees, assignees,  
28 trustees, receivers or other successors in interest having  
29 any of the powers or privileges of corporations not possessed  
30 by individuals or partnerships and shall include bona fide

1 cooperative associations which furnish service on a nonprofit  
2 basis only to their stock holders or members.

3 (3) All municipalities of this Commonwealth and also any  
4 public corporation, authority or body whatsoever created or  
5 organized under any statute of this Commonwealth for the  
6 purpose of rendering any service similar to that of a public  
7 utility.

8 "Petroleum products." Includes motor gasoline, middle  
9 distillate oils, residual fuel oils, aviation fuel, propane,  
10 butane, natural gasoline, naptha, gas oils, lubricating oils and  
11 any other similar or dissimilar liquid hydrocarbons.

12 "Petroleum supplier." Any firm or any part or subsidiary of  
13 any firm other than the United States Department of Defense  
14 which presently supplies, sells, transfers or otherwise  
15 furnishes as by consignment any petroleum product to wholesale  
16 purchasers or end-users, including, but not limited to refiners,  
17 natural gas processing plants or fractionating plants,  
18 importers, resellers, jobbers and retailers.

19 "Plan." The Energy Management plan.

20 "Projected shortage." When the estimated supply of petroleum  
21 products for any months is less than 95% of the supply sold in  
22 the same month of a base year, as reflected by the reports  
23 submitted to the office by petroleum suppliers.

24 "Wholesale purchaser-reseller." Any firm which purchases,  
25 receives through transfer or otherwise obtains as by consignment  
26 a petroleum product and resells or otherwise transfers it to  
27 other purchasers without substantially changing its form.

## 28 CHAPTER 3

### 29 PENNSYLVANIA STATE ENERGY OFFICE

30 Section 301. Pennsylvania State Energy Office.

1 (a) Establishment.--There is hereby established a  
2 Pennsylvania State Energy Office which shall develop, adopt and  
3 coordinate the implementation of an energy management plan for  
4 the conservation of and the development of energy resources  
5 throughout the Commonwealth.

6 (b) Director.--The Governor shall appoint a director who  
7 shall be the chief executive officer of the office and who shall  
8 exercise all of the powers and perform all of the duties vested  
9 in and imposed upon the office. The director shall have at least  
10 seven years of experience in the fields of energy development,  
11 engineering, research, education, production or regulation and  
12 shall have experience in public management or administration.

13 (c) Officers and employees.--The director may appoint such  
14 officers and employees of the office as he may deem necessary  
15 for the performance of its duties and retain or employ engineers  
16 and private consultants on a contract basis or otherwise for  
17 rendering professional or technical assistance.

18 Section 302. Powers and duties.

19 The energy office shall have the power and its duty shall be:

20 (1) To develop and maintain an effective program of  
21 collection, verification and analysis of energy information.  
22 This shall include, but shall not be limited to, information  
23 regarding: the production and output of energy within the  
24 Commonwealth; the use of energy by residential and industrial  
25 consumers and by State agencies and State-related  
26 institutions; and projected production, output and use of  
27 energy in the future. This program shall be coordinated with  
28 other State governmental data collection and recordkeeping  
29 programs, and the office shall utilize, to the fullest extent  
30 possible, any energy information collected and analyzed by

1 other State agencies or by Federal agencies. Internal  
2 validation procedures shall be established to assure the  
3 accuracy of the information received.

4 (2) To develop procedures whereby the general public may  
5 have reasonable access to the energy information collected  
6 and analyzed by the office. The office shall also provide the  
7 public with information on energy supply, distribution, use  
8 and conservation, including information on technological  
9 advancements.

10 (3) To develop, in cooperation with the Public Utility  
11 Commission, a common evaluation technique for forecasting  
12 methodologies used by public utilities, to be considered by  
13 the commission in all of its deliberations.

14 (4) To provide advice and energy information and to make  
15 recommendations on energy matters to other agencies of the  
16 State and to the General Assembly.

17 (5) To develop, in conjunction with the Energy Advisory  
18 Council, an energy management plan for implementation within  
19 the Commonwealth.

20 (6) To develop emergency fuel allocation programs and  
21 regulations for motor gasoline and other petroleum products  
22 for the purpose of ameliorating energy shortages or supply  
23 dislocations, whenever such occur, and to charge  
24 administrative fees for this purpose.

25 (7) To establish rules and regulations governing the  
26 sale and distribution of energy whenever an energy shortage  
27 emergency is declared by the Pennsylvania Emergency  
28 Management Agency.

29 (8) To monitor and assess technological advancements in  
30 energy development and conservation and to provide

1 independent technology assessment in support of the energy  
2 management plan.

3 (9) To review existing and proposed State or Federal  
4 agency rules and regulations which affect energy utilization  
5 and to recommend changes to the appropriate agency and to the  
6 General Assembly in order to achieve energy development and  
7 conservation in accordance with the energy management plan.

8 (10) To apply for, receive and accept grants, gifts,  
9 contributions, loans and other assistance in any form from  
10 public and private sources, including assistance from any  
11 Federal agency. From this assistance received, the office  
12 shall be authorized to make grants to any person,  
13 organization or State agency in order to further the duties  
14 of the office.

15 (11) To promulgate rules and regulations necessary to  
16 effectuate the powers and duties of the office.

17 (12) To promote and develop the use of coal with the  
18 goal of making it the primary source of energy within the  
19 Commonwealth.

20 Section 303. Coordinating function.

21 The energy office shall be responsible for coordinating all  
22 other State agencies in the development of existing and new  
23 energy sources and in the establishment of programs to conserve  
24 energy. In furtherance of this responsibility, the office shall  
25 minimize duplication of effort among the State agencies.

26 Section 304. Energy management plan.

27 (a) State policy.--The energy office shall formulate an  
28 energy management plan, which plan shall establish the State  
29 policy regarding the development, use and conservation of energy  
30 within the Commonwealth.

1 (b) Contents of plan.--The plan shall include, but shall not  
2 be limited to, the following:

3 (1) the current status of energy development, use and  
4 conservation in the Commonwealth, based on an analysis of  
5 energy information received by the office and other relevant  
6 sources of information;

7 (2) interim and long term projections and goals  
8 regarding the use and conservation of energy;

9 (3) proposed programs and procedures to be developed and  
10 adopted by State departments and agencies which are designed  
11 to diminish waste and provide for the effective use of energy  
12 in order to meet the goals set forth;

13 (4) recommendations as to specific changes in laws,  
14 rules, policies or administrative actions;

15 (5) recommendations on the appropriation of funds  
16 necessary to implement the proposed programs; and

17 (6) any other discussion, recommendations or proposals  
18 relevant to energy development, use or conservation.

19 (c) Preliminary draft.--A preliminary draft of the plan  
20 shall be submitted to the Governor and to the majority and  
21 minority leadership of each House of the General Assembly within  
22 120 days after the effective date of the act. The final draft of  
23 the plan shall be submitted within 180 days after the submission  
24 of the preliminary draft. Annual updates and revisions to the  
25 plan shall be submitted to the Governor and to the General  
26 Assembly by March 1 of each year thereafter.

27 (d) Public hearings.--

28 (1) After the submission of the preliminary draft, the  
29 office shall conduct public hearings in accordance with the  
30 act of July 19, 1974 (P.L.486, No.175), referred to as the

1 Public Agency Open Meeting Law, at locations around the  
2 Commonwealth to assure the maximum opportunity for discussion  
3 and testimony. Any person shall be entitled to testify and  
4 both oral and written testimony may be presented. Official  
5 records shall be kept and a summary of the testimony shall be  
6 included in the final draft of the plan.

7 (2) Copies of the preliminary draft of the plan and  
8 pertinent supporting information shall be deposited in each  
9 county of the Commonwealth at a place to be determined by the  
10 office at least 30 days before the first scheduled hearing is  
11 held, and the general public shall have reasonable access to  
12 such materials. Summaries of the preliminary and final drafts  
13 shall be made available to persons upon request at a cost to  
14 cover printing or copying charges.

15 Section 305. Petroleum industry information reports.

16 (a) Monthly reports.--Beginning July 1 of the year following  
17 the effective date of this act, each petroleum supplier doing  
18 business within the Commonwealth shall submit monthly reports to  
19 the energy office in a form prescribed by it specifying the  
20 volume barrels and gallons of petroleum products:

21 (1) sold to its Pennsylvania end-user and to wholesale  
22 purchaser-resellers for sale to Pennsylvania customers in the  
23 previous month; and

24 (2) for sale within the Commonwealth in the succeeding  
25 month.

26 (b) Projected shortage.--

27 (1) If the projected supply of any petroleum product for  
28 the succeeding month is less than 95% of the supply which was  
29 sold for the same month in a base year to be determined by  
30 the energy office thereby resulting in a projected shortage,

1 each petroleum supplier and wholesale purchaser-reseller  
2 doing business in the Commonwealth may be required by the  
3 office to supply additional information.

4 (2) A petroleum supplier may be required to furnish an  
5 explanation to the office of the reason for the projected  
6 shortage. The supplier, when requested by the office, shall  
7 submit information on the extent of the projected shortage,  
8 monthly supplies of petroleum products for each month in the  
9 succeeding quarter, the measures that the supplier intends to  
10 take to alleviate the shortage and the measures which it  
11 recommends for State and other government agencies to take to  
12 alleviate the shortage or the adverse effects of the  
13 projected shortage.

14 (3) A wholesale purchase-reseller, upon the request of  
15 the office shall provide the following information: the  
16 volume barrels and gallons of petroleum products owned or  
17 controlled by it; and the current and projected storage  
18 capacity for each month in the succeeding quarter.

19 (4) The office, by rule or regulation, may specify any  
20 additional information it may need.

21 Section 306. Reports from the Public Utility Commission.

22 (a) Contents.--The Pennsylvania Public Utility Commission  
23 shall be required to submit to the office those reports which it  
24 requires and receives from regulated public utilities. These  
25 reports shall include but shall not be limited to the following:

26 (1) Electrical generating capacity in the Commonwealth;  
27 long range plans for additions to that capacity; efficiency  
28 of electrical generation; price and cost factors in  
29 electrical generation; types and quantities of fuel used;  
30 projections of future demands, consumption of electricity by

1 sectors; and times, duration and levels of peak demand, as  
2 well as the conservation plans, activities and measures under  
3 consideration or currently being undertaken by each regulated  
4 utility.

5 (2) Storage capacity for natural gases; amounts and end-  
6 uses of gases sold; price and cost factors in the sale and  
7 end-use of gases; projections of future supplies and demand  
8 for natural gas by sector and the times, duration and levels  
9 of peak demand for natural gas.

10 (b) Certain other utilities.--Publicly owned utilities in  
11 the Commonwealth not under the jurisdiction of the Public  
12 Utility Commission shall be required to submit to the office the  
13 same information required of the regulated gas and electric  
14 utilities.

15 Section 307. Subpoenas.

16 The director is hereby authorized to issue subpoenas, when  
17 necessary, to require the production of books, documents,  
18 papers, records, statistics, data or other energy information  
19 for the purpose of:

20 (1) carrying out the provisions of sections 305 and 306;  
21 and

22 (2) obtaining energy information from State agencies.

23 Whenever there arises a refusal to honor a subpoena, the  
24 director may petition the Commonwealth Court for an order  
25 requiring the production of the requested books, documents,  
26 papers, records, statistics, data and energy information. Any  
27 failure to obey such an order issued by the court shall be  
28 punished by the court as a contempt thereof.

29 Section 308. Marketing or trade secrets.

30 (a) Designation of secrets.--Information given to the office

1 by an energy industry which that industry considers to be a  
2 marketing or trade secret, shall be so indicated by the industry  
3 supplying the information. The office shall have the authority  
4 to develop, by rules and regulations, procedures to be taken to  
5 assure the confidentiality of that information.

6 (b) Public disclosure.--Upon petition by any person, the  
7 office, by a written decision setting forth its reasons and  
8 signed by the director, shall make a determination whether  
9 specific information submitted to it is a marketing or trade  
10 secret and whether it should or should not be publicly  
11 disclosed. However, no information shall be considered a  
12 marketing or trade secret if it has been knowingly revealed by  
13 the industry supplying the information or if it is publicly  
14 available to any competitor of that industry.

15 Section 309. Duties of other State agencies.

16 (a) Reports.--The office from time to time may require  
17 reports of energy-related activities to be filed by the  
18 following: State departments, agencies, State-related  
19 institutions, State-supported universities and colleges,  
20 authorities, boards, commissions, councils, political  
21 subdivisions and quasi-governmental agencies of the State.

22 (b) Energy conservation plan.--The Department of General  
23 Services shall submit for approval to the office an energy  
24 conservation plan setting forth the energy conservation measures  
25 it intends to implement for State agencies and shall annually,  
26 thereafter, submit a progress report thereon in accordance with  
27 procedures established by the office. All State agencies shall  
28 comply with the procurement, leasing and building conservation  
29 policies established by the energy conservation plan.

30 Section 310. Report to the General Assembly.

1 In addition to the submission of the energy management plan,  
2 the office shall present to the General Assembly an annual  
3 report of its activities. Such report shall include, but shall  
4 not be limited to, accounting for funds received and disbursed,  
5 statistics concerning the administration of the emergency energy  
6 allocation program and the result of the contracted work which  
7 was done with Federal or State funds in that fiscal year.

## 8 CHAPTER 5

### 9 ENERGY ADVISORY COUNCIL

#### 10 Section 501. Establishment.

11 There is hereby established the Energy Advisory Council which  
12 shall provide a mechanism for citizen participation in the  
13 overall development of State energy policies and which shall  
14 advise and assist the energy office in the development and  
15 formulation of an energy management plan and its annual updates.

#### 16 Section 502. Composition, expenses and quorum.

##### 17 (a) Composition.--

18 (1) The council shall be composed of nine members, five  
19 of whom shall be members of the general public chosen by the  
20 Governor. The Governor shall also choose one from among these  
21 five members to serve as chairman.

22 (2) Four of the members shall be members of the General  
23 Assembly. Two shall be members of the House of  
24 Representatives, one from the majority party and one from the  
25 minority party, to be appointed by the Speaker of the House  
26 of Representatives. Two shall be members of the Senate, one  
27 from the majority party and one from the minority party, to  
28 be appointed by the President pro tempore.

29 (3) The public members shall serve for a term of five  
30 years and no public member shall serve for more than three

1 full terms. Initial appointments of public members shall be  
2 as follows: one member for a term of five years; one member  
3 for a term of four years; one member for a term of three  
4 years; one member for a term of two years; one member for a  
5 term of one year. Terms of Legislators as members of the  
6 council shall not extend beyond their term of membership in  
7 the General Assembly.

8 (b) Expenses.--The members of the council shall not receive  
9 a salary but shall be reimbursed for all necessary expenses  
10 incurred in the performance of their duties.

11 (c) Quorum.--Five or more members shall constitute a quorum.  
12 The council shall meet at least once during each quarter of the  
13 calendar year. The council may adopt bylaws governing its  
14 proceedings.

15 Section 503. Duties.

16 (a) Duties enumerated.--The duties of the council shall be:

17 (1) To review, evaluate and make recommendations  
18 regarding energy policies and programs to the director of the  
19 office.

20 (2) To assist the office and advise the State in  
21 carrying out the energy management plan as well as any other  
22 energy conservation and development programs and formulating  
23 any improvements or necessary changes with respect to such  
24 programs.

25 (3) To enlist the cooperation of civic and community  
26 organization, public utilities, industrial, commercial and  
27 labor organizations and other identifiable groups in order to  
28 develop and implement policies which further the purposes of  
29 this act.

30 (4) To establish criteria for end-use priorities, to be

1 included in any energy emergency plan developed by the  
2 Pennsylvania Emergency Management Agency.

3 (5) To assist the office when requested and whenever  
4 necessary in order to carry out the provisions of this act.

5 (b) Technical assistance.--In discharging its duties, the  
6 council may utilize the director and staff of the office for  
7 technical assistance.

## 8 CHAPTER 7

### 9 TRANSITION PROVISIONS, REPEALS

#### 10 AND EFFECTIVE DATE

11 Section 701. Governor's Energy Council abolished.

12 (a) Abolition.--The Governor's Energy Council is hereby  
13 abolished and, except as otherwise provided by this act, all the  
14 functions, powers and duties of the existing Governor's Energy  
15 Council are hereby continued in the energy office.

16 (b) Transfer of funds.--All appropriations, grants and other  
17 moneys available to the Governor's Energy Council are hereby  
18 transferred to the energy office created by this act and shall  
19 remain available for the objects and purposes for which  
20 appropriated, subject to any terms, restrictions, limitations or  
21 other requirements imposed by Federal or State law.

22 (c) Transfer of employees.--The employees of the Governor's  
23 Energy Council are hereby transferred to the energy office.  
24 Nothing in this act shall be construed to deprive the employees  
25 of any rights or protections provided them by the civil service,  
26 pension or retirement laws of this Commonwealth.

27 (d) Transfer of property.--All files, books, papers,  
28 records, equipment and other property of the Governor's Energy  
29 Council are hereby transferred to the energy office.

30 (e) Existing rules, regulations and orders.--The rules,

1 regulations and orders of the Governor's Energy Council shall  
2 continue with full force and effect as the rules, regulations  
3 and orders of the energy office until further amended or  
4 repealed.

5 (f) Construction of references.--Whenever in any law, rule,  
6 regulation, order, contract, document, judicial or  
7 administrative proceedings, or otherwise, reference is made to  
8 the Governor's Energy Council, the reference shall be considered  
9 to mean and refer to the Pennsylvania State Energy Office.

10 Section 702. Repeals.

11 All acts or parts of acts inconsistent herewith are hereby  
12 repealed to the extent of the inconsistency.

13 Section 702. Effective date.

14 This act shall take effect in 60 days.