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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 635

Session of  
1983

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COSLETT, NOYE, GODSHALL AND R. C. WRIGHT, MARCH 23, 1983

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REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, MARCH 23, 1983

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AN ACT

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

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6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Employment  
10 Opportunities Improvement Act.

11 Section 2. Legislative purpose.

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

1 interest and for the public benefit and good for the provisions  
2 of this act is hereby declared as a matter of legislative  
3 determination.

#### 4 Section 3. Definitions.

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

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

10 "Financial aid." The infusion of risk capital to persons for  
11 use in the development and exploitation of specific inventions  
12 and products.

13 "Innovation." The process by which an invention or an idea  
14 is translated into the economy for utilization.

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

17 "Person." Any individual, partnership, corporation or joint  
18 venture carrying on business, or proposing to carry on business,  
19 within the State.

20 "Product." Any product, device, technique or process, which  
21 is or may be exploitable commercially. The term shall not refer  
22 to pure research but shall be construed to apply to products,  
23 devices, techniques or processes which have advanced beyond the  
24 theoretic stage and are readily capable of being, or has been,  
25 reduced to practice.

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

#### 30 Section 4. Corporation established.

1 (a) Creation.--There is hereby created a nonprofit body  
2 corporate to be known as the Pennsylvania Product Development  
3 Corporation. The corporation is constituted a quasi-public  
4 instrumentality and the exercise by the corporation of the  
5 powers conferred in this act shall be deemed and held to be the  
6 performance of an essential public function.

7 (b) Board of directors.--The corporation shall be governed  
8 by a board of seven directors to be appointed by the Governor,  
9 at least four of whom shall be knowledgeable and have favorable  
10 reputations for skill, knowledge and experience, in the areas of  
11 the development of technological invention. On or before May 1,  
12 1984, the Governor shall appoint seven members of the board, two  
13 to serve for two years, two for four years and three for six  
14 years from July 1, 1984. On or before May 1 of the even-numbered  
15 years thereafter, the Governor shall appoint directors to  
16 succeed those whose terms expire for terms of six years from  
17 July 1 in the year of their appointment and until their  
18 successors have been appointed. A director shall be eligible for  
19 reappointment. The Governor shall fill any vacancy for the  
20 unexpired term.

21 (c) Chairman.--The directors shall annually elect one of the  
22 number as chairman and one as secretary. The board may elect  
23 such other officers of the board as it deems proper. Members  
24 shall receive no compensation for the performance of their  
25 duties but shall be reimbursed for necessary expenses incurred  
26 in the performance thereof.

27 (d) Oath.--Each director of the corporation before entering  
28 upon his duties shall take and subscribe the oath or affirmation  
29 required by Article VI of the Constitution. A record of each  
30 oath or affirmation shall be filed in the office of the

1 Secretary of the Commonwealth.

2 (e) Liability of directors.--No director shall be personally  
3 liable for damage or injury, not wanton or willful, caused in  
4 the performance of his duties and within the scope of his  
5 employment.

6 Section 5. Operation of corporation.

7 The corporation shall have perpetual succession and shall  
8 adopt, amend and repeal bylaws and regulations for the conduct  
9 of its affairs. The operations of the corporation shall be  
10 designed to accomplish the legislative purposes set forth in  
11 this act. Such succession shall continue until the existence of  
12 the corporation is terminated by law, but no termination shall  
13 affect any outstanding contractual obligation of the corporation  
14 to assist any person and the State shall succeed to the  
15 obligations of the corporation under the contract. Upon  
16 termination of the corporation its rights and properties shall  
17 pass to the State.

18 Section 6. Powers and duties.

19 The powers of the corporation shall be vested in and  
20 exercised by the board of directors. Four members of the board  
21 shall constitute a quorum and the affirmative vote of a majority  
22 of the members present at a meeting of the board shall be  
23 necessary and sufficient for any action taken by the board. No  
24 vacancy in the membership of the board shall impair the right of  
25 a quorum to exercise all the rights and perform all the duties  
26 of the board. Any action taken by the board may be authorized by  
27 resolution at any regular or special meeting and shall take  
28 effect immediately unless otherwise provided in the resolution.  
29 Notice of any meeting, whether special or regular, shall be  
30 given by telephone or orally, not less than 48 hours prior to

1 the meeting. The board may delegate to one or more of its  
2 members, officers, agents and employees such powers and duties  
3 as it may deem proper.

4 Section 7. Corporation president.

5 The board shall appoint a president of the corporation who  
6 shall not be a member of the board and who shall serve at the  
7 pleasure of the board and shall receive such compensation as  
8 shall be determined by the board. The president shall be the  
9 chief administrative and operational officer of the corporation  
10 and shall direct and supervise administrative affairs and the  
11 general management of the corporation. The president may be a  
12 State employee performing these functions part time for the  
13 first two years of operation of the corporation. The president  
14 may employ other employees as shall be designated by the board  
15 of directors, shall attend all meetings of the board and shall  
16 keep a record of all proceedings and maintain and be custodian  
17 of all books, documents and papers filed with the corporation  
18 and of the minute book of the corporation and of its official  
19 seal. He may cause copies to be made of all minutes and other  
20 records and documents of the corporation and may give  
21 certificates under the official seal of the corporation to the  
22 effect that the copies are true copies and all persons dealing  
23 with the corporation may rely upon the certificates.

24 Section 8. Corporate purpose.

25 The purpose of the corporation shall be to stimulate and  
26 encourage the development and commercialization of new products  
27 in this Commonwealth by the infusion of financial aid for  
28 invention and innovation in situations in which such financial  
29 aid would not otherwise be reasonably available from commercial  
30 sources and for this purpose the corporation shall have the

1 following powers:

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

6 (2) To enter into venture agreements with persons doing  
7 business in this Commonwealth, upon such terms and on such  
8 conditions as are consistent with the purposes of this act,  
9 for the advancement of financial aid to such persons for the  
10 development of specific products, procedures and techniques,  
11 to be developed and produced in this Commonwealth and to  
12 condition such agreements upon contractual assurances that  
13 the benefits of increasing employment and tax revenues shall  
14 accrue to this Commonwealth and shall remain in it for a  
15 sufficient time period to justify the State's involvement.

16 (3) To receive and accept loans, aid or contributions  
17 from any source of money, property or labor or other things  
18 of value, to be held, used and applied to carry out the  
19 purposes of this act, subject to the conditions upon which  
20 such grants and contributions may be made, including but not  
21 limited to, gifts or grants from any department or agency of  
22 the United States or the Commonwealth.

23 (4) To acquire, lease, purchase, manage, hold and  
24 dispose of real and personal property in this Commonwealth  
25 and lease, convey or deal in or enter into contracts with  
26 respect to such property on any terms necessary or incidental  
27 to the carrying out of these purposes.

28 (5) To borrow money to the extent permitted under this  
29 act.

30 (6) To hold patents, copyrights, trademarks or any other

1 evidences of protection of exclusivity as to any products as  
2 defined herein, issued under the laws of the United States or  
3 any state or nation.

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

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

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

14 (10) To invest with the approval of the State Treasurer,  
15 any funds not needed for immediate use or disbursement,  
16 including any funds held in reserve, in obligations issued or  
17 guaranteed by the United States of America or the  
18 Commonwealth of Pennsylvania and in other obligations which  
19 are legal investments for banks in this State.

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

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

28 (13) To invest and reinvest the funds of the corporation  
29 including the returns of prior investment in projects  
30 furthering the purposes of this act.



1           (14) To make grants to business development credit  
2       corporations for purposes of providing venture capital.

3           (15) To do all acts and things necessary and convenient  
4       to carry out the purposes of this act.

5       Section 9. Application for financial aid.

6       All applications for financial aid shall be forwarded,  
7       together with an application fee prescribed by the corporation,  
8       to the president of the corporation. The president, after  
9       preparing necessary records for the corporation, shall forward  
10      each application to the staff of the corporation, for an  
11      investigation and report concerning any other factors deemed  
12      relevant by the corporation. The application may also be  
13      referred to by any local industrial development authority,  
14      community development corporation or other similar organization  
15      willing to accept the responsibility, for an investigation and  
16      report. The investigations and reports shall include, but shall  
17      not be limited to, such facts about the company under  
18      consideration as its history, wage standards, job opportunities,  
19      stability of employment, past and present financial condition  
20      and structure, pro forma income statements, present and future  
21      markets and prospects, integrity of management as well as the  
22      feasibility of the proposed product and invention to be granted  
23      financial aid, including the state of development of such  
24      product as well as the likelihood of its commercial feasibility.  
25      After receipt and consideration of the above report and after  
26      such other action as is deemed appropriate, the corporation  
27      shall approve or deny the application. The applicant shall be  
28      promptly notified of the action by the corporation. The approval  
29      shall be conditioned upon payment to the corporation, within  
30      such reasonable time after notification of approval as may be

1 specified by the corporation, of a commitment fee prescribed by  
2 the corporation.

3 Section 10. Appropriation.

4 The sum of \$1,000,000 is hereby appropriated to the  
5 Pennsylvania Product Development Corporation for the purposes  
6 established by this act.

7 Section 11. Annual report.

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

16 Section 12. Nonintervention clause.

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

27 Section 13. Construction.

28 The powers enumerated in this act shall be interpreted  
29 broadly to effectuate its purposes and shall not be construed as  
30 a limitation of powers.

1 Section 14. Tax exempt.

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

9 Section 15. Effective date.

10 This act shall take effect in 60 days.