

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 49

Session of
1987

INTRODUCED BY PETRARCA, J. L. WRIGHT, HALUSKA, TRELLO, SWEET,
KOSINSKI, STABACK, CAPPABIANCA, PETRONE AND CARLSON,
JANUARY 28, 1987

REFERRED TO COMMITTEE ON MINES AND ENERGY MANAGEMENT,
JANUARY 28, 1987

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," creating the Department of
21 Energy and prescribing its powers and duties; establishing
22 the Energy Research and Development Board as an advisory
23 board in the Department of Energy; further providing for the
24 powers and duties of the Department of Environmental
25 Resources and the appointment of mine inspectors; creating a
26 Division of Administrative Hearings in the Office of Attorney
27 General and prescribing its powers and duties; further
28 providing for mine inspectors and certain conflicts of
29 interest; providing for the salary of the Secretary of
30 Energy; transferring certain bureaus, personnel, allocations,
31 appropriations, equipment and other materials from the
32 Department of Environmental Resources to the Department of

1 Energy; and making repeals.

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

4 Section 1. Section 201 of the act of April 9, 1929 (P.L.177,
5 No.175), known as The Administrative Code of 1929, amended
6 December 30, 1984 (P.L.1299, No.245), is amended to read:

7 Section 201. Executive Officers, Administrative Departments
8 and Independent Administrative Boards and Commissions.--The
9 executive and administrative work of this Commonwealth shall be
10 performed by the Executive Department, consisting of the
11 Governor, Lieutenant Governor, Secretary of the Commonwealth,
12 Attorney General, Auditor General, State Treasurer, and
13 Secretary of Education; by the Executive Board, and the
14 Pennsylvania State Police; by the following administrative
15 departments: Department of State, Office of Attorney General,
16 Department of Corrections, Department of the Auditor General,
17 Treasury Department, Department of Education, Department of
18 Military Affairs, Insurance Department, Department of Banking,
19 Department of Agriculture, Department of Transportation,
20 Department of Health, Department of Labor and Industry,
21 Department of Aging, Department of Public Welfare, Department of
22 General Services, Department of Revenue, Department of Commerce,
23 Department of Community Affairs [and], Department of
24 Environmental Resources and Department of Energy; and by the
25 following independent administrative boards and commissions:
26 Pennsylvania Game Commission, Pennsylvania Fish Commission,
27 State Civil Service Commission, Pennsylvania Public Utility
28 Commission, the Pennsylvania Historical and Museum Commission
29 and the Pennsylvania Securities Commission.

30 All of the provisions of this act, which apply generally to

1 administrative departments, or generally except to the
2 Department of the Auditor General, the Treasury Department and
3 the Office of Attorney General, shall apply to the Executive
4 Board and to the Pennsylvania State Police.

5 Section 2. As much as relates to the Department of
6 Environmental Resources in section 202 of the act, added
7 December 3, 1970 (P.L.834, No.275), is amended to read:

8 Section 202. Departmental Administrative Boards,
9 Commissions, and Offices.--The following boards, commissions,
10 and offices are hereby placed and made departmental
11 administrative boards, commissions, or offices, as the case may
12 be, in the respective administrative departments mentioned in
13 the preceding section, as follows:

14 * * *

15 In the Department of Environmental Resources,
16 Environmental Quality Board,
17 Environmental Hearing Board,
18 State Board for Certification of Sewage Treatment and
19 Waterworks Operators,
20 State Soil and Water Conservation Commission[,
21 Anthracite Mine Inspectors,
22 Bituminous Mine Inspectors].

23 * * *

24 Section 3. Section 203 of the act, amended December 3, 1970
25 (P.L.834, No.275), July 22, 1975 (P.L.75, No.45), June 20, 1978
26 (P.L.477, No.70) and December 6, 1982 (P.L.774, No.223), is
27 amended to read:

28 Section 203. Advisory Boards and Commissions.--The following
29 advisory boards and commissions are placed in and made parts of
30 the respective administrative departments, as follows:

1 In the Department of Military Affairs,
2 State Military Reservation Commission,
3 State Veterans' Commission;
4 In the Department of Environmental Resources,
5 Citizens Advisory Council;
6 In the Department of Health,
7 Advisory Health Board;
8 In the Department of Labor and Industry,
9 Industrial Board,
10 Advisory Council on Affairs of the Handicapped,
11 Advisory Board on Problems of Older Workers;
12 In the Department of Public Welfare,
13 State Board of Public Welfare,
14 Advisory Committee for the Blind,
15 Advisory Committee for General and Special Hospitals,
16 Advisory Committee for Children and Youth,
17 Advisory Committee for Public Assistance,
18 Advisory Committee for Mental Health and Mental
19 Retardation;
20 In the Department of Commerce,
21 Board of the Ben Franklin Partnership Fund;
22 In the Department of Energy,
23 Energy Research and Development Board.

24 Section 4. Sections 206 and 207.1(d)(1) of the act, amended
25 December 30, 1984 (P.L.1299, No.245), are amended to read:

26 Section 206. Department Heads.--Each administrative
27 department shall have as its head an officer who shall, either
28 personally, by deputy, or by the duly authorized agent or
29 employe of the department, and subject at all times to the
30 provisions of this act, exercise the powers and perform the

1 duties by law vested in and imposed upon the department.

2 The following officers shall be the heads of the
3 administrative departments following their respective titles:

4 Secretary of the Commonwealth, of the Department of State;

5 Auditor General, of the Department of the Auditor General;

6 State Treasurer, of the Treasury Department;

7 Attorney General, of the Office of Attorney General;

8 Secretary of Education, of the Department of Education;

9 Adjutant General, of the Department of Military Affairs;

10 Insurance Commissioner, of the Insurance Department;

11 Secretary of Banking, of the Department of Banking;

12 Secretary of Agriculture, of the Department of Agriculture;

13 Secretary of Transportation, of the Department of

14 Transportation;

15 Secretary of Health, of the Department of Health;

16 Secretary of Labor and Industry, of the Department of Labor
17 and Industry;

18 Secretary of Aging, of the Department of Aging;

19 Secretary of Public Welfare, of the Department of Public
20 Welfare;

21 Secretary of Revenue, of the Department of Revenue;

22 Secretary of Commerce, of the Department of Commerce;

23 Secretary of Community Affairs, of the Department of
24 Community Affairs;

25 Secretary of Environmental Resources, of the Department of
26 Environmental Resources;

27 Secretary of Energy, of the Department of Energy;

28 Secretary of General Services, of the Department of General
29 Services;

30 Secretary of Corrections, of the Department of Corrections.

1 Section 207.1. Gubernatorial Appointments.--* * *

2 (d) The Governor shall nominate in accordance with the
3 provisions of the Constitution of the Commonwealth of
4 Pennsylvania and, by and with the advice and consent of a
5 majority of the members elected to the Senate appoint persons to
6 fill the following positions:

7 (1) The Secretary of Education, the Secretary of the
8 Commonwealth, the Adjutant General, the Insurance Commissioner,
9 the Secretary of Banking, the Secretary of Agriculture, the
10 Secretary of Transportation, the Secretary of Health, the
11 Commissioner of the State Police, the Secretary of Corrections,
12 the Secretary of Labor and Industry, the Secretary of Aging, the
13 Secretary of Public Welfare, the Secretary of General Services,
14 the Secretary of Revenue, the Secretary of Commerce, the
15 Secretary of Community Affairs [and], the Secretary of
16 Environmental Resources and the Secretary of Energy.

17 * * *

18 Section 5. Section 438 of the act, amended December 3, 1970
19 (P.L.834, No.275), is amended to read:

20 Section 438. Mine Inspectors.--There shall be as many
21 [anthracite mine inspectors, and as many bituminous mine
22 inspectors, as may now or hereafter be provided by law] mine
23 inspectors as may now or hereafter be necessary to conduct
24 inspections with the frequency mandated by State and Federal
25 law. All such mine inspectors shall be appointed[, respectively,
26 from among persons holding valid certificates of qualification
27 issued by the Department of Environmental Resources.] in
28 accordance with the act of August 5, 1941 (P.L.752, No.286),
29 known as the "Civil Service Act."

30 The manner of appointing mine inspectors[,] and their

1 qualifications[, and their terms of office,] shall be as may now
2 or hereafter be provided by law.

3 Section 6. Section 448 of the act is amended by adding a
4 clause to read:

5 Section 448. Advisory Boards and Commissions.--The advisory
6 boards and commissions, within the several administrative
7 departments, shall be constituted as follows:

8 * * *

9 (q) The Energy Research and Development Board shall consist
10 of the Secretary of Energy, who shall be chairman thereof, the
11 Secretary of Commerce, the Secretary of Environmental Resources,
12 the Chairman of the Pennsylvania Public Utility Commission, the
13 Chairman of the Governor's Energy Council, and eight (8) members
14 appointed by the Governor. The eight (8) appointed members shall
15 be knowledgeable in fields related to energy development,
16 production and use and shall be appointed by the Governor as
17 follows: one (1) member shall be from an electric power utility,
18 one (1) member shall be from a fossil fuel-fired boiler
19 manufacturer, one (1) member shall be the owner or official of a
20 coal mine or coal-cleaning plant, one (1) member shall be an oil
21 or gas producer, one (1) member shall be knowledgeable in
22 renewable energy resources, one (1) member shall be from a
23 hydroelectric power user and two (2) members shall be from the
24 energy research staff of an accredited Pennsylvania university
25 or college. The membership of the Energy Research and
26 Development Board shall also include four (4) members of the
27 General Assembly, one appointed by the President pro tempore of
28 the Senate, one by the Minority Leader of the Senate, one by the
29 Speaker of the House of Representatives and one by the Minority
30 Leader of the House of Representatives.

1 The term of office of each member appointed by the Governor
2 shall be four (4) years, measured from the third Tuesday of
3 January of the year in which he takes office, or until his
4 successor has been appointed except, that in the initial
5 appointments of the members of the board, the Governor shall
6 appoint four members for terms of two (2) years each and four
7 (4) members for terms of three (3) years each.

8 Any member appointed to fill a vacancy created otherwise than
9 by expiration of term shall be appointed for the unexpired term
10 of the member whom he is to succeed. Members of the board shall
11 not receive any compensation for their service but shall be
12 reimbursed for actual and necessary expenses incurred in the
13 performance of their duties and shall receive a per diem
14 allowance of seventy-five dollars (\$75).

15 A majority of the members shall constitute a quorum. Meetings
16 of the board shall be held at least quarterly or at the call of
17 the chairman, or at the request of at least six (6) members of
18 the board.

19 The Department of Energy shall provide technical assistance
20 and support services to the board.

21 Section 7. Section 1901-A of the act, added December 3, 1970
22 (P.L.834, No.275), is amended to read:

23 Section 1901-A. Powers and Duties in General.--The
24 Department of Environmental Resources shall, subject to any
25 inconsistent provision in this act contained, continue to
26 exercise the powers and perform the duties by law heretofore
27 vested in and imposed upon:

28 (1) The Department of Forests and Waters, the Secretary of
29 Forests and Waters, the Water and Power Resources Board, the
30 Flood Control Commission, the Pennsylvania State Park and Harbor

1 Commission of Erie, and the State Forest Commission;

2 [(2) The Department of Mines and Mineral Industries, the
3 Secretary of Mines and Mineral Industries, the Oil and Gas
4 Conservation Commission, the Mine Inspectors' Examining Board
5 for the Bituminous Coal Mines of Pennsylvania, and the
6 Anthracite Mine Inspectors' Examining Board;]

7 (3) The Oil and Gas Inspectors' Examining Board, created by
8 the act of December 21, 1959 (P.L.1967), which board is hereby
9 abolished;

10 (4) The Land Restoration Board, created by the act of June
11 27, 1947 (P.L.1095), which board is hereby abolished;

12 (5) The Land Reclamation Board, created by the act of May
13 31, 1945 (P.L.1198), which board is hereby abolished;

14 (6) The Department of Health and the Secretary of Health in
15 so far as such powers and duties pertain to the control of
16 nuisances from grounds, vehicles, apartments, buildings and
17 places within the Commonwealth, to the sanitary condition of
18 tenements, lodging and boarding houses, to management of the
19 sanitary affairs of the Commonwealth, the issuance of waterworks
20 permits and to the control of water pollution;

21 (7) The former Commissioner of Health and the Department of
22 Health by the act of April 22, 1905 (P.L.260), entitled "An act
23 to preserve the purity of the waters of the State, for the
24 protection of the public health;"

25 (8) The Department of Health and the Secretary of Health by
26 the act of August 20, 1953 (P.L.1217), entitled "An act
27 providing for payments by the Commonwealth to municipalities
28 which have expended money to acquire and construct sewage
29 treatments plants in accordance with the Clean Streams Program
30 and the act, approved the twenty-second day of June, one

1 thousand nine hundred thirty-seven (Pamphlet Laws 1987), and
2 making an appropriation;"

3 (9) The Department of Health by the act of June 23, 1931
4 (P.L.899), known as the "Public Bathing Law;"

5 [(10) The Department of Health by the act of January 19,
6 1968 (P.L.996), known as "The Land and Water Conservation and
7 Reclamation Act;"]

8 (11) The Department of Health by the act of May 23, 1945
9 (P.L.926), entitled "An act for the protection of the public
10 health by regulating the conduct and operation of public eating
11 and drinking places within this Commonwealth; requiring their
12 licensing; imposing certain duties on the Department of Health
13 of this Commonwealth and on the local health authorities; and
14 providing penalties;"

15 (12) The Department of Health by the act of April 30, 1929
16 (P.L.897), entitled "An act regulating the manufacturing,
17 bottling, and selling of certain waters, and requiring permits
18 therefor; prescribing the authority of the Department of Health
19 and of local boards of health and health officers with respect
20 thereto; and providing penalties;"

21 (13) The Department of Health by the act of November 10,
22 1959 (P.L.1400), entitled "An act providing for the annual
23 registration of organized camps for children, youth and adults;
24 defining the duties of the Department of Health of the
25 Commonwealth of Pennsylvania; and prescribing penalties;"

26 (14) The Department of Health by the act of January 24, 1966
27 (P.L.1535), known as the "Pennsylvania Sewage Facilities Act;"

28 (15) The Department of Health by the act of July 31, 1968
29 (Act No.241), known as the "Pennsylvania Solid Wastes Management
30 Act;"

1 (16) The Department of Health by the act of January 8, 1960
2 (P.L.2119), known as the "Air Pollution Control Act;"

3 (17) The Department of Health by the act of January 28, 1966
4 (P.L.1625), known as "The Atomic Energy Development and
5 Radiation Control Act;"

6 (18) The Department of Health by the act of September 8,
7 1959 (P.L.807), entitled "An act empowering the Department of
8 Health to regulate the burial of radioactive material and to
9 issue permits therefor; and prescribing penalties;"

10 (19) The Department of Health and the Secretary of Health by
11 the act of October 26, 1959 (P.L.1380), entitled "An act
12 empowering the Commonwealth to acquire land and operate burial
13 grounds for the disposal of radioactive materials;"

14 [(20) The Department of Health by the act of June 22, 1937
15 (P.L.1987), known as "The Clean Streams Law;"]

16 (21) The Department of Health by the act of November 18,
17 1968 (Act No. 322), known as the "Sewage Treatment Plant and
18 Waterworks Operators' Certification Act;"

19 (22) The Sanitary Water Board;

20 (23) The Air Pollution Commission, created by the act of
21 January 8, 1960 (P.L.2119), known as the "Air Pollution Control
22 Act," which commission is hereby abolished[;]_

23 [(24) The Department of Labor and Industry and the Secretary
24 of Labor and Industry in so far as such powers and duties relate
25 to regulation of mining operations, quarry operations and sand
26 and gravel pits under the act of July 1, 1937 (P.L.2681),
27 entitled "An act relating to, and regulating the manufacture,
28 storing, and possession of explosives; requiring permits for
29 magazines, and prescribing permit fees; and providing
30 penalties," and July 10, 1957 (P.L.685), entitled "An act

1 regulating the use of explosives in certain blasting operations;
2 requiring examination and licensing of certain explosives'
3 detonators and prescribing the fee thereof; and conferring
4 powers and imposing duties on the Department of Labor and
5 Industry."]

6 Section 8. Section 1902-A(6) and (13) of the act, added
7 December 3, 1970 (P.L.834, No.275) and amended July 2, 1980
8 (P.L.345, No.87), are amended to read:

9 Section 1902-A. Forest Powers and Duties.--The Department of
10 Environmental Resources shall have the power, and its duty shall
11 be:

12 * * *

13 (6) Whenever it shall appear that the welfare of the
14 Commonwealth, with reference to reforesting, and the betterment
15 of the State forests, with respect to control, management,
16 protection, utilization, development, and regulation, of their
17 occupancy and use, will be advanced by selling or disposing of
18 any of the timber on the State forests, to dispose of such
19 timber on terms most advantageous to the State: Provided, That
20 the department is authorized and directed to set aside, within
21 the State forests, unusual or historical groves of trees, or
22 natural features, especially worthy of permanent preservation,
23 to make the same accessible and convenient for public use, and
24 to dedicate them in perpetuity to the people of the State for
25 their recreation and enjoyment. [And the said department is
26 hereby empowered, to make and execute contracts or leases, in
27 the name of the Commonwealth, for the mining or removal of any
28 valuable minerals that may be found in said State forests, or of
29 oil and gas beneath those waters of Lake Erie owned by the
30 Commonwealth, or of oil and gas beneath the land of Woodville

1 State Hospital owned by the Commonwealth, whenever it shall
2 appear to the satisfaction of the department that it would be
3 for the best interests of the State to make such disposition of
4 said minerals: And provided further, That any proposed contracts
5 or leases of valuable minerals, exceeding one thousand dollars
6 (\$1,000) in value, shall have been advertised once a week for
7 three weeks, in at least two newspapers published nearest the
8 locality indicated, in advance of awarding such contract or
9 lease. Such contracts or leases may then be awarded to the
10 highest and best bidder, who shall give bond for the proper
11 performance of the contract as the department shall designate:
12 Provided, however, That where the Commonwealth owns a fractional
13 interest in the oil, natural gas and other minerals under State
14 forest lands, the requirement of competitive bidding may be
15 waived, and the department may enter into a contract to lease
16 that fractional interest, with the approval of the Governor, and
17 upon such terms and conditions as the department deems to be in
18 the best interest of the Commonwealth.]

19 * * *

20 [(13) The Department of Environmental Resources shall, with
21 the approval of the Governor, have the authority to enter into
22 agreements with owners or lessees of property or property rights
23 located in the same area as lands owned or leased by the
24 Commonwealth, for the protection, preservation or recovery of
25 metallic or nonmetallic ore, fuel, oil, natural gas or any other
26 mineral deposits underlying said lands, provided the said
27 deposits are owned by the Commonwealth;]

28 * * *

29 Section 9. Section 1903-A(12) of the act is repealed.

30 Section 10. Section 1904-A(6) of the act, added December 3,

1 1970 (P.L.834, No.275), is amended to read:

2 Section 1904-A. Waters.--The Department of Environmental
3 Resources shall have the power and its duty shall be:

4 * * *

5 (6) [To] Subject to the provisions of section 1902-B(11), to
6 maintain a complete inventory of all the water resources of the
7 Commonwealth; collect all pertinent data, facts, and information
8 in connection therewith; classify, tabulate, record, and
9 preserve the same; and, upon the basis thereof, determine, the
10 points at which storage reservoirs may be constructed for flood
11 control, for municipal and domestic supply, [hydraulic and
12 hydroelectric power, steam raising, steam condensation,]
13 navigation, and other utilization; and generally to devise all
14 possible ways and means to conserve and develop the water supply
15 and water resources of the Commonwealth for the use of the
16 people thereof;

17 * * *

18 Section 11. Sections 1906-A(9), 1908-A(3), 1915-A, 1916-A
19 and 1928-A of the act are repealed.

20 Section 12. The act is amended by adding an article to read:

21 ARTICLE XIX-B
22 POWERS AND DUTIES OF THE
23 DEPARTMENT OF ENERGY, ITS
24 OFFICERS AND ITS ADVISORY
25 BOARD

26 Section 1901-B. Powers and Duties in General.--The
27 Department of Energy shall, subject to any inconsistent
28 provision in this act, continue to exercise the powers and
29 perform the duties by law heretofore vested in and imposed upon
30 the Department of Environmental Resources under section 1901-

A(2), section 1901-A(10), as much of section 1901-A(20) as relates to any matter within the jurisdiction of the Department of Energy and section 1901-A(24).

Section 1902-B. The Department of Energy shall have the power and its duty shall be:

(1) To make and execute contracts or leases in the name of the Commonwealth, with the approval of the Governor, and have the authority to enter into agreements with owners or lessees of property or property rights located in the same areas as lands owned or leased by the Commonwealth, for the protection, preservation or recovery of metallic or nonmetallic ore, oil, natural gas or any other mineral deposits underlying said lands, provided said deposits are owned by the Commonwealth, whenever it is determined by the department that it would be for the best interests of the Commonwealth to make such disposition of said deposits. Any proposed contracts or leases for the extraction or recovery of metallic or nonmetallic ore, oil, natural gas or other minerals shall have been published once a week for three consecutive weeks, in at least two newspapers of general circulation in the locality where the extraction or recovery is to be located, prior to awarding such contract or lease. Such contract or lease shall be awarded to the highest and best bidder capable for the proper performance of the contract:

Provided, however, That where the Commonwealth owns a fractional interest in the oil, natural gas and other minerals, the requirement of competitive bidding may be waived, and the department may enter into a contract to lease that fractional interest, with the approval of the Governor, and upon such terms and conditions as the department deems to be in the best interest of the Commonwealth.

1 (2) To make and execute contracts or leases, in the name of
2 the Commonwealth, for the mining or removal of any valuable
3 minerals that may be found in State forests, or of oil and gas
4 beneath those waters of Lake Erie owned by the Commonwealth, or
5 of oil and gas beneath the land of Woodville State Hospital
6 owned by the Commonwealth, whenever it shall appear to the
7 satisfaction of the department that it would be for the best
8 interests of the State to make such disposition of said
9 minerals: Provided, That any proposed contracts or leases of
10 valuable minerals exceeding one thousand dollars (\$1,000) in
11 value shall have been advertised once a week for three weeks, in
12 at least two newspapers published nearest the locality
13 indicated, in advance of awarding such contract or lease. Such
14 contracts or leases may then be awarded to the highest and best
15 bidder, who shall give bond for the proper performance of the
16 contract as the department shall designate: Provided, however,
17 That where the Commonwealth owns a fractional interest in the
18 oil, natural gas and other minerals under State forest lands,
19 the requirement of competitive bidding may be waived, and the
20 department may enter into a contract to lease that fractional
21 interest, with the approval of the Governor and upon such terms
22 and conditions as the department deems to be in the best
23 interest of the Commonwealth.

24 (3) To enter into agreements to sell, lease or otherwise
25 dispose of any iron, coal, limestone, fire-clay, oil, gas and
26 other minerals, except sand and gravel and minerals deposited in
27 pools created by dams, that may be found in or beneath the beds
28 of navigable streams or bodies of water within this Commonwealth
29 and nonnavigable streams or bodies of water where the beds
30 thereof are owned by the Commonwealth, on such terms and

1 conditions as the department deems to be in the best interest of
2 the Commonwealth. Nothing herein shall authorize the
3 interference with free navigation of said streams or bodies of
4 water or to undermine the bed thereof or to interfere with the
5 rights of any person or persons holding property on the banks
6 thereof.

7 (4) To enter into contracts: (i) to implement the Abandoned
8 Mine Reclamation Program under Title IV of the Surface Mining
9 Control and Reclamation Act of 1977, (Public Law 95-87, 30
10 U.S.C. § 1231 et seq.); (ii) for the abatement and control work
11 authorized under the act of January 19, 1968 (1967 P.L.996,
12 No.443), known as "The Land and Water Conservation and
13 Reclamation Act"; (iii) to reclaim abandoned surface mines as
14 provided for in the act of May 31, 1945 (P.L.1198, No.418),
15 known as the "Surface Mining Conservation and Reclamation Act,"
16 the act of December 19, 1984 (P.L.1093, No.219), known as the
17 "Noncoal Surface Mining Conservation and Reclamation Act," and
18 the act of September 24, 1968 (P.L.1040, No.318), known as the
19 "Coal Refuse Disposal Control Act"; (iv) to restore, repair or
20 mitigate damages as provided for in the act of April 27, 1966
21 (1st Sp.Sess., P.L.31, No.1), known as "The Bituminous Mine
22 Subsidence and Land Conservation Act"; and (v) to plug abandoned
23 oil and gas wells as provided in the act of December 19, 1984
24 (P.L.1140, No.223), known as the "Oil and Gas Act."

25 (5) In all cases in which the department enters into a
26 contract and the other party to the contract is required to post
27 a bond or other acceptable security to be held to apply as a
28 credit against any unpaid balances or to carry out any
29 unfulfilled conditions, the moneys of said bonds or securities
30 shall accrue to the benefit of the Department of Energy insofar

1 as necessary to indemnify the department and the Commonwealth
2 from all losses caused by failure of the contracting party to
3 fulfill any contract condition. Moneys not required by the
4 department to pay unpaid balances or to fulfill contract
5 conditions shall accrue to the General Fund; Provided, however,
6 That where the contract was awarded under clause (3) of this
7 section, the excess moneys shall be deposited into the fund
8 under which the contract was authorized.

9 (6) To see that the mining laws of the Commonwealth are
10 faithfully executed, and, for that purpose, cause lawfully
11 qualified mine inspectors to enter, inspect and examine any mine
12 or colliery within this Commonwealth and the works and machinery
13 connected therewith.

14 (7) To give such aid and instruction to the mine inspectors,
15 from time to time, as may be calculated to protect the health
16 and promote the safety of all persons employed in and about the
17 mines.

18 (8) To make such examinations and investigations as may be
19 necessary to enable it to make recommendations upon any matters
20 pertaining to the general welfare of coal miners and others
21 connected with mining and the interests of mine owners and
22 operators in this Commonwealth.

23 (9) To seal or close or backfill abandoned deep or strip
24 coal mines, to plug abandoned oil and gas wells, other than
25 those governed by the act of December 19, 1984 (P.L.1140,
26 No.223), known as the "Oil and Gas Act," to fill voids in
27 abandoned coal mines, to drill bore holes, dig ditches or
28 construct flumes which would relieve flooding or hazardous
29 conditions caused by mine water, and to extinguish fires in
30 abandoned coal mines and in culm banks, in those instances where

1 such work is in the interest of the public welfare.

2 (10) To administer the laws and regulations of the
3 Commonwealth relating to the drilling and operation of oil and
4 gas wells and gas storage reservoirs.

5 (11) To administer the laws and regulations of the
6 Commonwealth which regulate: (i) the construction operation and
7 maintenance of dams, water obstructions or encroachments for
8 hydraulic and hydroelectric power; (ii) stream raising and steam
9 condensation reservoirs; and (iii) any dam, impoundment,
10 embankment and other water obstruction and encroachment
11 necessary for the extraction, recovery or processing of metallic
12 and nonmetallic ore, oil, gas and other minerals.

13 (12) To request and receive, from any Commonwealth agency,
14 department, board, bureau or commission, any assistance and data
15 required to carry out the purposes of this article. The
16 department is hereby authorized, with the approval of the
17 Governor, to enter into memorandums of understanding,
18 cooperative agreements or contracts to achieve such end and to
19 cooperate in the activities of and with such Commonwealth
20 agency, department, board, bureau or commission and the Federal
21 Government or any appropriate agency thereof.

22 (13) To formulate, adopt and promulgate such rules and
23 regulations necessary for the proper performance of the work of
24 the department, and continue to exercise any power to formulate,
25 adopt and promulgate rules and regulations relating to any
26 matter within the jurisdiction of the department heretofore
27 vested in the Environmental Quality Board or other departments
28 and boards; and any such rules or regulations promulgated prior
29 to the effective date of this act shall be the rules and
30 regulations of the Department of Energy until such time as they

1 are modified, repealed, suspended, superseded or otherwise
2 changed by the Department of Energy.

3 Section 1903-B. Review of Regulations.--Any rule,
4 regulation, policy or procedure pertaining to matters within the
5 jurisdiction of the department in effect on the effective date
6 of this amendatory act shall be reviewed by the Secretary of
7 Energy on the written request of a person substantially affected
8 by the rule, regulation, policy or procedure. The secretary
9 shall initiate a review within thirty (30) days of receipt of
10 the request and issue a decision, in writing, within ninety (90)
11 days of receipt of the request to retain, modify or suspend and
12 the reasons therefor.

13 Section 1904-B. Division of Administrative Hearings.--(a)
14 There is hereby created a Division of Administrative Hearings in
15 the Office of Attorney General.

16 (b) The division shall have the power and it duties shall be
17 to hold hearings and issue adjudications under Title 2 of the
18 Pennsylvania Consolidated Statutes (relating to administrative
19 law and procedure), on any decision or action of the department,
20 including, but not limited to: notice of violation, penalty
21 assessment, order, permit, license, or the whole or part of a
22 rule or equivalent. A decision or action shall be considered
23 final when reduced to writing, whether affirmative, negative,
24 injunctive or declaratory in form.

25 (c) The division shall continue to exercise any power to
26 hold hearings and issue adjudications relating to any matter
27 within the jurisdiction of the department heretofore vested in
28 the Environmental Hearing Board.

29 (d) Anything in any law to the contrary notwithstanding, any
30 action of the department may be taken initially without regard

1 to the provisions of Title 2 of the Pennsylvania Consolidated
2 Statutes, but no such action of the department adversely
3 affecting any person shall be final as to such person until such
4 person has had the opportunity to appeal such action to the
5 division: Provided, however, That any such action shall be final
6 as to any person who has not perfected his appeal in the manner
7 hereinafter specified.

8 (e) An appeal taken to the division from a decision of the
9 department shall not act as a supersedeas, but upon cause shown
10 and where the circumstances require it, the department or the
11 board shall have the power to grant a supersedeas.

12 (f) Hearings of the division shall be conducted in
13 accordance with rules and regulations adopted by the Office of
14 the Attorney General, and such rules and regulations shall
15 include time limits for the taking of appeals, procedures for
16 the taking of appeals, locations at which hearings shall be held
17 and such other rules and regulations as may be determined
18 advisable.

19 (g) The Attorney General shall employ hearing examiners,
20 knowledgeable of the laws of the Commonwealth, and such other
21 personnel as are necessary to perform the duties prescribed
22 herein: Provided, however, That the number of examiners employed
23 shall be sufficient to provide timely and expeditious hearings
24 at each office of the department.

25 (h) The division shall have the power to subpoena witnesses,
26 records and papers; and upon certification to it of failure to
27 obey any such subpoena, the Commonwealth Court is empowered,
28 after hearing, to enter, when proper, an adjudication of
29 contempt and such other order as the circumstances require.

30 Section 1905-B. Energy Research and Development Board.--(a)

The Energy Research and Development Board shall have the responsibility for developing a master energy policy and plan for the Commonwealth.

(b) The board shall assist and provide advice to the Secretary of Energy, and the secretary shall work with and receive advice from the board in the development of energy programs for the Commonwealth.

(c) The functions of the board shall include, but not be limited to:

(1) Providing liaison among energy producers, labor organizations, academia and agencies of the United States and the Commonwealth.

(2) Providing coordination and oversight of energy research programs being conducted at colleges and universities located within this Commonwealth and, where possible, in the private sector.

(3) Recommending research and demonstration, through pilot projects, of technological developments which enhance the production and use of Pennsylvania coals and the more efficient combustion of all fossil fuels.

(4) Assisting the Secretary of Energy in developing environmentally sound, cost-effective energy regulatory programs and the policies and procedures to implement such programs.

Section 1906-B. Mine Inspectors.--Subject to any inconsistent provisions contained in this act, anthracite mine inspectors and bituminous mine inspectors shall, respectively, under the direction of the Secretary of Energy, continue to exercise the powers and perform the duties vested in and imposed upon them by law.

Section 1907-B. Conflict of Interest in Mining and Oil and

1 Gas Regulation.--(a) No employe of the Department of Energy
2 performing any function or duty within the scope of activities
3 covered by the Surface Mining Control and Reclamation Act of
4 1977 (Public Law 95-87 30 U.S.C. § 1201 et seq.) shall have a
5 direct or indirect financial interest in any underground or
6 surface coal mining operation as defined by this act. Whoever
7 knowingly violates the provisions of this subsection shall, upon
8 conviction, be punished by a fine of not more than two thousand
9 five hundred dollars (\$2,500) or by imprisonment of not more
10 than one (1) year, or both. Rules and regulations shall be
11 promulgated hereunder to establish methods by which the
12 provisions of this subsection will be monitored and enforced by
13 the Department of Energy, including, but not limited to,
14 appropriate provisions for the filing by such employes and the
15 review of statements and supplements thereto concerning any
16 financial interest which may be affected by this subsection.

17 (b) No employe of the Department of Energy performing the
18 function or duty of an oil or gas inspector shall act as a
19 manager, employe or agent of any oil or gas drilling operation
20 or of any mining or mining operation, nor shall he be interested
21 in any pecuniary way in such operations in this Commonwealth.
22 Whoever knowingly violates the provisions of this subsection
23 shall, upon conviction, be punished by a fine of not more than
24 two thousand five hundred dollars (\$2,500) or by imprisonment of
25 not more than one (1) year, or both. Rules and regulations shall
26 be promulgated hereunder to establish methods by which the
27 provisions of this subsection will be monitored and enforced by
28 the Department of Energy, including, but not limited to,
29 appropriate provisions for the filing by such employes and the
30 review of statements and supplements thereto concerning any

1 financial interest which may be affected by this subsection.

2 Section 1908-B. Salary of Secretary of Energy.--The
3 Secretary of Energy shall receive an annual salary, payable in
4 equal semi-monthly installments, of sixty-five thousand dollars
5 (\$65,000).

6 Section 13. (a) The following are transferred to the
7 Department of Energy:

8 (1) All bureaus, divisions and government units, or
9 portions thereof, in the Department of Environmental
10 Resources concerned with the function relating to any matter
11 within the jurisdiction of the Department of Energy.

12 (2) All bureaus, divisions and government units, or
13 portions thereof, in the Department of Commerce responsible
14 for the functions enumerated in section 2501-B(c), (d) and
15 (e) of the act.

16 (b) All personnel, allocations, appropriations, equipment,
17 files, records, contracts, agreements, obligations and other
18 materials which are used, employed or expended in connection
19 with the powers, duties or functions transferred by this act to
20 the Department of Energy are hereby transferred to the
21 Department of Energy with the same force and effect as if the
22 appropriations had been made to and said items had been the
23 property of the Department of Energy in the first instance and
24 as if said contracts, agreements and obligations had been
25 incurred or entered into by said Department of Energy.

26 (c) The personnel, appropriations, equipment and other items
27 and material transferred by this section shall include an
28 appropriate portion of the general administrative, overhead and
29 supporting personnel, appropriations, equipment and other
30 material of the agency and shall also include, where applicable,

1 Federal grants and funds and other benefits from any Federal
2 program.

3 (d) All personnel transferred pursuant to this act shall
4 retain any civil service employment status assigned to said
5 personnel.

6 Section 14. All positions in the Department of Energy shall
7 be deemed to be included in the list of positions set forth in
8 section 13(d) of the act of August 5, 1941 (P.L.752, No.286),
9 known as the Civil Service Act, and the provisions and benefits
10 of that act shall be applicable to the employees of, and
11 positions in, the department.

12 Section 15. Whenever the Secretary of Environmental
13 Resources shall be entitled by law to serve on a board,
14 commission or other body relating to any matter within the
15 jurisdiction of the department, the Secretary of Energy shall
16 serve in his place as if the Secretary of Energy had been
17 designated to serve in the first instance.

18 Section 16. All orders, permits, regulations, decisions and
19 other actions of the Department of Environmental Resources or
20 any department, board, commission or agency whose functions have
21 been transferred by this act to the Department of Energy shall
22 remain in full force and effect until modified, repealed,
23 superseded or otherwise changed by appropriate action of the
24 Department of Energy.

25 Section 17. All acts and parts of acts are repealed insofar
26 as they are inconsistent with this act.

27 Section 18. Nothing in this amendatory act shall be
28 construed to abrogate or modify the power and jurisdiction of
29 the Department of Environmental Resources to administer the laws
30 of this Commonwealth except as provided in this amendatory act.

1 Section 19. This act shall take effect in 180 days.