
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1370 Session of
2002

INTRODUCED BY PUNT, D. WHITE, LAVALLE, WAUGH, KUKOVICH, WENGER,
MUSTO, HELFRICK, WOZNIAK, GERLACH, ERICKSON, RHOADES,
LEMMOND, BOSCOLA, SCARNATI, STOUT, THOMPSON, C. WILLIAMS AND
ROBBINS, MARCH 22, 2002

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 28, 2002

AN ACT

1 Amending the act of June 29, 1996 (P.L.434, No.67), entitled, as
2 amended, "An act to enhance job creation and economic
3 development by providing for an annual financing strategy,
4 for opportunity grants, for job creation tax credits, for
5 small business assistance, for the Small Business Advocacy
6 Council, for a family savings program, for industrial
7 development assistance, for community development bank grants
8 and loans and for tax-exempt bond allocation; conferring
9 powers and duties on various administrative agencies and
10 authorities; further providing for various funds; and making
11 repeals," further providing for definitions, for the
12 Pollution Prevention Assistance Account and for eligibility
13 and terms and conditions of loans; providing for job
14 training; and further providing for the power and authority
15 for the Pennsylvania Economic Development Financing
16 Authority; and making a repeal.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. The definitions of "capital development project"
20 or "project," "export activity" and "small business enterprises"
21 in section 1301 of the act of June 29, 1996 (P.L.434, No.67),
22 known as the Job Enhancement Act, amended or added June 24, 1997

1 (P.L.247, No.23) and November 17, 1998 (P.L.788, No.100), are
2 amended and the section is amended by adding definitions to
3 read:

4 Section 1301. Definitions.

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

8 * * *

9 "Agricultural producer." A person or entity involved in the
10 management and use of normal agricultural operation for the
11 production of a farm commodity.

12 * * *

13 "Capital development project" or "project." Land, buildings,
14 equipment and machinery and working capital which is acquired,
15 constructed, renovated or used by a small business enterprise:

16 (1) As part of a for-profit project or venture not of a
17 mercantile or service-related nature, except for hospitality
18 industry projects and except as otherwise provided in section
19 1303(a.1).

20 (2) To bring a small business enterprise into compliance
21 with Federal or State environmental laws or regulations or to
22 complete an approved remediation project or to permit the
23 small business enterprise to adopt generally acceptable
24 pollution prevention practices.

25 (3) To provide assistance to small business enterprises
26 that are recyclers of municipal or commercial waste or that
27 are manufacturers using recycled municipal or commercial
28 waste materials.

29 (4) To assist a small business enterprise with defense
30 conversion activities.

1 (5) For the manufacture of products to be exported out
2 of the United States by a small business enterprise as part
3 of a for-profit project or venture not of a mercantile or
4 service-related nature, except for export-related services
5 and international export-related mercantile ventures or
6 advanced technology and computer-related services and
7 mercantile ventures, which will increase this Commonwealth's
8 national or international market shares.

9 (6) As part of a for-profit project or venture that
10 meets the requirements of section 1303(a.1).

11 (7) To assist in the start-up or expansion of a for-
12 profit or not-for-profit child day-care center subject to
13 licensure by the Commonwealth.

14 "Child day-care center." Any premises in which child day
15 care is provided simultaneously for seven or more children who
16 are not related to the provider.

17 * * *

18 "Export activity." An activity undertaken by an enterprise
19 related to exports of goods and services outside of the United
20 States. [The term includes manufacturing, assembling and like
21 operations.]

22 * * *

23 "Small business [enterprises] enterprise." A for-profit
24 corporation, partnership [or], proprietorship, limited liability
25 company or other entity which meets the eligibility requirements
26 established by the department. The term shall include, but is
27 not limited to, a small business [enterprises] enterprise which:

28 (1) is located in a small business incubator
29 [facilities, small business enterprises which are] facility;

30 (2) is an agricultural [processors and small business

enterprises which manufacture] processor;

(3) is an agricultural producer;

(4) manufactures apparel products[.]; or

(5) is a for-profit or not-for-profit child day-care center subject to licensure by the Commonwealth.

* * *

Section 2. Sections 1302(b.1), 1303(a.1) and (a.2) and 1304(a.1) and (a.2) of the act, amended or added November 17, 1998 (P.L.788, No.100), are amended to read:

Section 1302. Small Business First Fund and Pollution Prevention Assistance Account.

* * *

(b.1) Pollution Prevention Assistance Account.--There is hereby created within the Small Business First Fund a Pollution Prevention Assistance Account to provide revolving loans to small businesses that employ 100 or fewer individuals[, that operate from a stationary source] and that adopt or install pollution prevention or energy-efficient equipment or processes. The account shall be administered by the department. All appropriations made for the purposes of this account and all proceeds from loan repayments, including interest, and any and all other deposits, payments and contributions from any other source made available to the department for the purposes of this account shall be deposited into this account.

* * *

Section 1303. Eligibility for and terms and conditions of loans.

* * *

(a.1) Loans to small business enterprises in certain areas.--

1 (1) The department may provide loans to small business
2 enterprises located in distressed communities which are in
3 the business-to-public service, mercantile, commercial or
4 point-of-sale retail business sectors in accordance with
5 conditions or criteria established by the department in
6 guidelines adopted for these loans. Loans shall be made in
7 accordance with the provisions of this chapter except that:

8 (i) [Loans may be made to mercantile or service-
9 related enterprises approved by the department.]

10 (ii) The [provisions of subsection (b) relating to
11 required increases in employment shall not apply to loans
12 made under this subsection] small business enterprise
13 must agree to retain, at a minimum, jobs in existence as
14 of the date of loan application.

15 (iii) The department may authorize flexible
16 repayment terms and an interest rate of not less than 2%.

17 (iv) The department may utilize additional area loan
18 organizations, including community development financial
19 institutions, to receive loan applications and administer
20 loans.

21 (v) The department may use its best judgment to
22 identify and secure collateral.

23 (2) Distressed communities shall include:

24 (i) Any census tract or other specifically defined
25 geographic area in which:

26 (A) there is a median income below 80% of the
27 median income for this Commonwealth or the United
28 States;

29 (B) 20% or more of the population is below the
30 poverty level by family size published by the Bureau

1 of the Census; or

2 (C) there is an unemployment rate 50% higher
3 than the national average.

4 (ii) A Keystone Opportunity Zone.

5 (iii) Any other geographic area designated by the
6 department as distressed. The designation shall be
7 published in the Pennsylvania Bulletin.

8 (3) The department and area loan organization shall not
9 make loans under this subsection on the basis of direct
10 financial return on investment and shall not be held to the
11 loan loss standards of private commercial lenders. Loans
12 shall be for the purpose of establishing a strong economic
13 base and promoting entrepreneurial activity within the
14 distressed community.

15 (4) In order to receive a loan under this subsection, a
16 small business enterprise must demonstrate a direct impact on
17 the community in which it is located, on residents of that
18 community, or on the local and/or regional economy. The
19 department shall establish criteria that will assist small
20 business enterprises in making this demonstration.

21 (a.2) Pollution prevention assistance loans.--The Pollution
22 Prevention Assistance Account created under section 1302(b.1)
23 shall provide revolving loans to small businesses.

24 (1) The loans shall be for the purpose of enabling the
25 small business to adopt or install pollution prevention
26 equipment or processes to:

27 (i) Reduce or reuse raw materials onsite.

28 (ii) Reduce the production of waste.

29 (iii) Reduce energy consumption.

30 (2) The Pollution Prevention Assistance Account shall

1 not invest on the basis of direct financial return and shall
2 not be held to the loan loss standards of commercial lenders.
3 Loans shall be for the purpose of reducing pollution through
4 source reduction technologies or processes.

5 (3) A loan under this subsection may not exceed the
6 lesser of:

7 (i) [\$50,000] \$100,000; or

8 (ii) 75% of eligible project costs.

9 (4) Loans under this subsection shall have an interest
10 rate of 2% per year and a [maximum] repayment term of [seven]
11 not to exceed ten years.

12 (5) An industrial resource center receiving funds under
13 the act of [July 2, 1993 (P.L.439, No.64), known as the Ben
14 Franklin/IRC Partnership Act] June 22, 2001 (P.L.400, No.31),
15 known as the Industrial Resources Center Partnership Act, may
16 utilize the account to provide assistance to a small business
17 enterprise for which a loan application has been made.

18 (6) Loans under this subsection shall be used to further
19 the goal of pollution prevention through the purchase and
20 installation of equipment to make operational changes and
21 modify production practices.

22 * * *

23 Section 1304. Application and administration.

24 * * *

25 [(a.1) Distressed communities.--An area loan organization
26 designated to administer loans to distressed communities under
27 section 1303(a.1) shall provide documentation that the small
28 business enterprise is located in a distressed community as
29 required by the department.]

30 (a.2) Pollution prevention assistance loans.--

1 (1) Applications for loans from the Pollution Prevention
2 Assistance Account established under section 1302(b.1) shall
3 be on a form prescribed by the department and shall be
4 reviewed under subsection (b)(2). The Department of
5 Environmental Protection shall assist the department and
6 provide technical assistance with application review.

7 (2) The department, an area loan organization or an
8 industrial resource center may charge fees, costs, service
9 charges, loan commitment fees or other expenses not to exceed
10 [1%] 5% of the loan amount.

11 * * *

12 Section 3. Section 1311(e), (g) and (h) of the act, added
13 June 24, 1997 (P.L.247, No.23), are amended and the section is
14 amended by adding a subsection to read:

15 Section 1311. Export Financing Loan Fund; loans and
16 applications; powers and duties.

17 * * *

18 (e) Conditions.--A loan must comply with all of the
19 following:

20 [(1) Be to a company eligible for a policy.

21 (2) Be guaranteed by the Working Capital Guaranty
22 Program offered by the Ex-Im Bank or be on an export credit
23 sales contract insured by a policy.]

24 (3) Be limited to [companies that have facilities within
25 this Commonwealth which are involved in export activities]
26 the financing of export activities that take place within
27 this Commonwealth.

28 (4) Be based on an export contract that requires payment
29 in United States dollars.

30 [(5) Be for the purpose of financing export activity.]

(6) Be limited to companies with 250 or fewer full-time [equivalent] employees.

(e.1) Additional conditions.--At the discretion of the department, a loan may also be required to comply with one or both of the following conditions:

(1) Be to a company eligible for a policy.

(2) Be guaranteed by the Working Capital Guaranty Program offered by the Ex-Im Bank or be on an export credit sales contract insured by a policy.

* * *

(g) Restrictions.--Export Financing Loan Fund assistance shall not exceed \$350,000 for any individual project [or 50% of the eligible project costs, whichever is less]. A loan must not supplant funding which is otherwise available from private sector sources on commercially reasonable terms.

(h) Terms.--A loan shall have a term, rate of interest, transaction size and other business conditions that comply with the requirements [of the Ex-Im Bank and any other requirements] of the department.

* * *

Section 4. The act is amended by adding a chapter to read:

CHAPTER 29

CUSTOMIZED JOB TRAINING PROGRAM

Section 2901. Definitions.

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

"Applicant." Any of the following:

(1) A local education agency.

(2) An industrial resource center.

1 (3) An economic development organization.

2 (4) A greenhouse.

3 ~~(5) A private company.~~

4 ~~(6)~~ (5) A local work force investment board.

5 "Capital investment." An expenditure for land, buildings,
6 renovations, machinery and equipment which is directly related
7 to the need for the proposed training.

8 "Economic development organization." An entity certified by
9 the department. The term includes "area loan organizations" and
10 "industrial development corporations" as defined in section
11 2301.

12 "Educational institution." Any of the following:

13 (1) Area vocational-technical schools.

14 (2) Community and junior colleges.

15 (3) Intermediate units.

16 (4) Licensed private/proprietary business and trade
17 schools.

18 (5) Public school districts.

19 (6) State or private colleges or universities.

20 "Greenhouse." A nonprofit organization recognized under
21 section 501(c)(3) of the Internal Revenue Code of 1986 (Public
22 Law 99-514, 26 U.S.C. § 501(c)(3)) which is formed for the
23 express purpose of creating university/business partnerships to
24 advance science and technology and to support economic and work
25 force development.

26 "Industrial resource center." An industrial resource center
27 as defined in the act of June 22, 2001 (P.L.400, No.31), known
28 as the Industrial Resources Center Partnership Act.

29 "Labor organization." An organization, agency or employee
30 representation committee or plan in which employees participate

1 and which exists for the purpose, in whole or in part, of
2 dealing with disputes between an employer and its employees
3 involving grievances, labor disputes, wages, rates of pay, hours
4 of employment or conditions of work. The term does not include
5 an organization, agency, committee or plan which practices
6 discrimination in membership because of race, color, creed,
7 national origin, sex or political affiliation.

8 "Local education agency." An educational institution located
9 in the Commonwealth and certified by the Department of
10 Education.

11 "Local work force investment board." An entity recommended
12 for certification by the Pennsylvania Workforce Investment Board
13 and certified by the Governor in accordance with the act of
14 December 18, 2001 (P.L.949, No.114), known as the Workforce
15 Development Act.

16 "Private company." A business, professional service company
17 or other enterprise. The term may include a group of two or more
18 private companies operating as a consortium in order to take
19 advantage of a common training program. The term shall not
20 include point-of-sale retail businesses.

21 "Program." The Customized Job Training Program established
22 in section 2902.

23 "Trainee." An individual who is an employee or prospective
24 employee and is enrolled in an eligible training program which
25 is designed to enable the individual to obtain or retain
26 employment.

27 "Training program." A systematic program which is designed
28 to provide a trainee with the skills and knowledge necessary to
29 meet a private company's or labor organization's specifications
30 for an occupation or trade, the successful completion of which

results in one of the following:

(1) The trainee being employed or continuing to be employed full time by that private company.

(2) A trainee receiving instruction or training related to an occupation with a shortage of skilled workers or a targeted industry cluster as referred in section 2905(3)(i).

The programs may involve instruction within a local education agency, within a private company plant or on-the-job training, within a training program of a labor organization, through technology-based instruction or any combination thereof.

Section 2902. Program.

(a) Program continuation.--The customized job training program within the department is continued and reestablished. Funds appropriated to the department for the program shall be used to provide grants for training programs.

(b) Department responsibilities.--The department shall do all of the following:

(1) Administer the program.

(2) Review, approve and award grants to applicants in accordance with sections 2904 and 2905.

(3) Enter into one or more partnerships with one or more local education agencies or other training providers in accordance with section 2907.

(4) Establish, at the beginning of each fiscal year, a reserve not to exceed 25% of the funds appropriated to the department for the program for the use of small business applicants. Any uncommitted funds in the reserve after March 1 of any fiscal year may be made available to any applicant.

(5) Establish a private matching fund requirement for applicants. The department shall establish the private

1 matching fund requirement for applicants RECIPIENTS which are <—
2 private companies or labor organizations at not less than 25%
3 of the total eligible training project cost. The department
4 may establish different matching fund requirements for small
5 businesses and labor organizations.

6 Section 2903. Applications.

7 (a) Provisions of application.--An applicant may submit an
8 application to the department for a grant to fund a training
9 program in accordance with the following:

10 (1) If an application is submitted by an industrial
11 resource center or economic development organization, the
12 industrial resource center or economic development
13 organization may apply for a grant on behalf of a private
14 company, greenhouse or labor organization. An economic
15 development organization may not serve as the direct training
16 provider of the trainees.

17 (2) If an application is submitted by a local work force
18 investment board, the local work force investment board may
19 apply for a grant only on behalf of projects which promote
20 local education agency and private company partnerships or
21 private company and private company partnerships.

22 ~~(3) If an application to train entry level employees is~~ <—
23 ~~submitted by or on behalf of a private company, the applicant~~
24 ~~shall demonstrate that the private company has contacted the~~
25 ~~local work force investment board and the local county board~~
26 ~~of assistance to solicit referrals of candidates for the~~
27 ~~training program.~~

28 ~~(4)~~ (3) If an application is submitted by any other
29 person, the application shall satisfy any requirements
30 established by the department.

1 (b) Requirements of application.--An application shall:

2 (1) Demonstrate that the applicant considered other
3 available resources, including private sector funds, other
4 State or local agency training programs or funds made
5 available under the Workforce Investment Act of 1998 (Public
6 Law 105-200, 112 Stat. 936), or such other Federal programs
7 which provide funds for employment training.

8 (2) Contain a description of the proposed training or
9 instructional program to be carried out.

10 (3) Disclose if an applicant intends to contract with
11 other organizations or individuals for the provision of all
12 or a portion of the services to be provided and if disclosed,
13 a request to allocate a portion of the grant from the
14 applicant to the subcontractor.

15 (4) Include a written commitment from the applicant to
16 invest private matching funds in the training project.

17 Section 2904. Review of applications.

18 The department shall review an application and may request
19 from the applicant and its training provider such additional
20 information and records as it deems necessary to carry out its
21 responsibilities under this chapter.

22 Section 2905. Approval of applications and award of grants.

23 The department may approve and award grants to applicants in
24 accordance with all of the following:

25 (1) The department must find that the applicant has
26 satisfied the applicable matching fund requirement and that
27 the grant will be used by the applicant to provide training
28 or instruction only to Commonwealth residents.

29 (2) The department must find that the grant will result
30 in any of the following objectives:

1 (i) The location or expansion of a private company
2 or greenhouse within this Commonwealth with the creation
3 of jobs paying competitive wages and the private company
4 or greenhouse making capital expenditures.

5 (ii) The expansion or upgrade of existing jobs which
6 result in increased wages for the jobs.

7 (iii) The retention of jobs in this Commonwealth
8 which would otherwise be lost.

9 (iv) The promotion of local education agency and
10 private company partnerships and private company and
11 private company partnerships if a direct connection
12 between the development of skills and subsequent
13 employment by one or more private companies can be
14 demonstrated.

15 (v) The promotion of efforts by a labor organization
16 to upgrade the skills of its members.

17 (3) The department shall give priority to those
18 applications which have any of the following characteristics:

19 (i) The application would establish a training
20 program determined by the department to be in a growth
21 industry vital to this Commonwealth's competitiveness.
22 These industries include: agribusiness, advanced
23 manufacturing, advanced materials, life sciences,
24 biotechnology and health care, environmental technology
25 and information technology.

26 (ii) The application is submitted on behalf of a
27 private company or labor organization and is located:

28 (A) in a municipality in which the average
29 unemployment rate in the most recently completed
30 calendar year is above the Statewide average

unemployment rate for the same period;

(B) in a State-designated enterprise zone; or

(C) in a municipality or region which has

suffered a significant loss of jobs due to one or

more major plant closings, layoffs or natural or man-

made disaster.

(iii) The application is submitted ~~by or~~ on behalf <—

of a private company which plans to create 50 or more

jobs and which is making a capital investment of at least

\$1,000,000.

(4) The department may determine that the grant will be
used by the applicant to reimburse the cost of training.

Costs may include instructional costs, costs of instructional
or training material or software, costs associated with
tuition reimbursement and reasonable administrative costs as
determined by the department.

Section 2906. Limitations.

(a) Department.--The department may not do any of the
following:

(1) Award grants under this chapter which in the
aggregate exceed the amount of the annual appropriations to
the department for the program.

(2) Award more than 10% of the funds appropriated to the
program in any one fiscal year to any one ~~private company,~~ <—
greenhouse or labor organization including any affiliates
thereof.

(3) Award a grant ~~to or~~ on behalf of any private company <—
or labor organization including any affiliates thereof, for
more than two successive fiscal years and for no more than
three out of every five fiscal years.

1 (b) Recipients.--A recipient of a grant may not do any of
2 the following:

3 (1) Use a grant to do any of the following:

4 (i) Pay wages of trainees during training.

5 (ii) Pay any costs associated with building
6 construction or renovation or the acquisition, upgrade or
7 installation of equipment or machinery including computer
8 equipment.

9 (2) Use a grant to reduce the work force or displace
10 workers of a private company prior to the commencement of a
11 training program except because the introduction of new
12 manufacturing techniques, technology and modernization may
13 lead to short-term reductions in a private company's work
14 force. The secretary may waive this grant limitation if the
15 long-term economic benefits to be gained by the private
16 company significantly exceed the short-term detriment to its
17 work force.

18 (3) Use a grant to violate any conditions of an existing
19 collective bargaining agreement.

20 (4) Use a grant for point-of-sale retail job training.

21 Section 2907. Partnerships.

22 If the department determines that a training program is more
23 effectively delivered through a partnership, the department may
24 enter into partnership agreements with one or more local
25 education agencies or other training providers to provide the
26 training program. The training programs shall consist of basic
27 and entry-level skills, technology skill training, training
28 related to job retention or other specified training assistance.
29 Under a partnership arrangement, the department may limit the
30 number and category of applicants which may submit applications

for assistance and may establish minimal standards and requirements for project eligibility. These requirements may be separate and distinct from the requirements established under this chapter except that the provision of section 2906 shall apply to all training programs funded under this chapter.
Section 2908. Compliance with statutes and collective bargaining agreements.

The department shall require each person receiving a grant under this chapter to comply with applicable Federal and State statutes governing employment discrimination, minority recruitment, minimum or prevailing wages, work site safety and procurement practices. The department shall require each private company receiving a grant ASSISTANCE under this chapter to certify that its training program does not abridge any contractual agreement between the private company and the collective bargaining representative of its employees.

Section 2909. Penalties and investigations.

(a) Private company.--Unless the department determines that a private company's failure is due to circumstances outside the control of the private company, the private company shall be liable to repay all or part of the amount of a grant awarded UTILIZED under this chapter if the private company does any of the following:

(1) Fails to create the number of jobs specified in its agreement with or commitment to the department.

(2) Fails to make the amount of capital investment specified in the application to the department.

(3) Fails to substantially carry out the training program approved by the department.

(b) Applicants.--An applicant or subcontractor that fails to

provide for or to perform a training program approved by the department may be required to repay to the department any funds it received under a grant awarded by the department.

(c) Investigation.--Upon receiving any complaint from a private company, greenhouse, labor organization or trainee as to the inadequacy of training received, the department may initiate an investigation and take appropriate action, including the recovery of grant funds expended.

Section 5. Section 5105 of the act is amended to read:

Section 5105. Power and authority of the Pennsylvania Economic Development Financing Authority.

In addition to the powers set forth in section 6.3 of the act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law, the Pennsylvania Economic Development Financing Authority established under that act shall have the power and is hereby authorized to issue its limited obligation revenue bonds and other types of financing, as in the judgment of the financing authority shall be necessary, to provide sufficient funds for any activity the department or the Pennsylvania Industrial Development Authority is permitted to take with respect to the loan portfolios subject to their respective administrative authority [as set forth in section 1302]. Bonds authorized to be issued under this section shall not be a debt or liability of the Commonwealth and shall not create or constitute any indebtedness, liability or obligation of the Commonwealth except to the extent the bonds are secured by the pledge of loan portfolios. Bonds authorized to be issued under this section shall be payable solely from the revenues or funds pledged or available for their repayment.

Section 6. The act of December 20, 1985 (P.L.492, No.116),

1 known as the Customized Job Training Act, is repealed.

2 Section 7. The addition of Chapter 29 of the act shall be
3 deemed a continuation of the program authorized by the former
4 act of December 20, 1985 (P.L.492, No.116), known as the
5 Customized Job Training Act, and, except where in conflict with
6 the provisions of this act, the regulations promulgated under
7 that former act shall remain in force and effect until they are
8 amended or repealed in accordance with law.

9 Section 8. This act shall take effect immediately.