

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 75

Session of
2005

INTRODUCED BY FRANKEL, BEBKO-JONES, BELARDI, BELFANTI,
CALTAGIRONE, CAWLEY, CLYMER, CORRIGAN, COSTA, CURRY, GEORGE,
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WHEATLEY, WOJNAROSKI, YOUNGBLOOD, YUDICHAK, GOODMAN, FREEMAN,
MARKOSEK, ROSS AND REICHLEY, JANUARY 25, 2005

REFERRED TO COMMITTEE ON COMMERCE AND ECONOMIC DEVELOPMENT,
JANUARY 25, 2005

AN ACT

1 Amending the act of May 17, 1956 (1955 P.L.1609, No.537),
2 entitled "An act to promote the welfare of the people of the
3 Commonwealth by the reduction of unemployment in certain
4 areas of the Commonwealth determined to be critical economic
5 areas; providing for the establishment of industrial
6 development projects in such areas; creating The Pennsylvania
7 Industrial Development Authority as a body corporate and
8 politic with power to allocate funds for and make secured
9 loans to industrial development agencies for the payment of a
10 part of the cost of industrial development projects in
11 critical economic areas; authorizing the Authority to enter
12 into agreements with the Government of the United States or
13 any Federal agency or industrial development agency;
14 empowering the Authority to take title to, sell, convey and
15 lease industrial development projects where necessary to
16 protect loans made by the Pennsylvania Industrial Development
17 Authority on industrial development projects; providing that
18 no debt of the Commonwealth, its municipalities or political
19 subdivisions shall be incurred in the exercise of any powers
20 granted by this act; and providing for the examination of the
21 accounts and affairs of the Authority; and making an
22 appropriation," including biotechnology enterprises and small
23 business incubators within the scope of the act; and further
24 regulating loans to industrial development agencies.

25 The General Assembly of the Commonwealth of Pennsylvania
26 hereby enacts as follows:

1 Section 1. The last paragraph of section 2 of the act of May
2 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania
3 Industrial Development Authority Act, amended July 10, 1963
4 (P.L.221, No.125), is amended to read:

5 Section 2. Findings and Declaration of Policy.--It is hereby
6 determined and declared as a matter of legislative finding--

7 * * *

8 Therefore, it is hereby declared to be the policy of the
9 Commonwealth of Pennsylvania to promote the health, safety,
10 morals, right to gainful employment, business opportunities and
11 general welfare of the inhabitants thereof by the creation of a
12 body corporate and politic to be known as "The Pennsylvania
13 Industrial Development Authority" which shall exist and operate
14 for the public purpose of alleviating unemployment with its
15 resulting spread of indigency and economic stagnation by the
16 promotion and development of industrial and manufacturing
17 enterprises [and], research and development facilities,
18 biotechnology enterprises and small business incubators in those
19 areas of the Commonwealth in which conditions of critical
20 unemployment currently or may from time to time exist. Such
21 purposes are hereby declared to be public purposes for which
22 public money may be spent.

23 Section 2. Section 3(i) of the act, amended June 16, 1972
24 (P.L.475, No.153), is amended and the section is amended by
25 adding clauses to read:

26 Section 3. Definitions.--The following terms, whenever used
27 or referred to in this act, shall have the following meanings,
28 except in those instances where the context clearly indicates
29 otherwise:

30 * * *

(i) The term "industrial development project" shall mean any land, site, structure, facility or undertaking comprising or being connected with or being a part of (i) an industrial enterprise, (ii) a manufacturing enterprise, (iii) a research and development enterprise, [or] (iv) an agricultural enterprise, (v) a biotechnology enterprise, or (vi) a small business incubator established or to be established by an industrial development agency in a critical economic area.

* * *

(v) The term "biotechnology enterprise" shall mean an enterprise which is engaged in the research, development, production or provision of biotechnology for the purpose of developing or providing products, processes or technologies for specific commercial or public purposes, including, but not limited to, medical, pharmaceutical, nutritional and other health-related purposes, agricultural purposes and environmental purposes, or engaged in providing services or products necessary for such research, development, product or provision of service, and which enterprise requires substantial capital by virtue of its technological needs and creates or will create substantial employment opportunities by its nature and technological needs.

(w) The term "small business incubator" shall mean a facility in which small units of space may be leased by a tenant and in which management maintains or provides access to business development services for use by tenants.

Section 3. Section 5(b) of the act, amended July 10, 1963 (P.L.221, No.125), is amended to read:

Section 5. Powers of the Authority; General.--The Authority, as a public corporation and governmental instrumentality exercising public powers of the Commonwealth, is hereby granted

1 and shall have and may exercise all powers necessary or
2 appropriate to carry out and effectuate the purposes of this
3 act, including the following powers, in addition to others
4 herein granted:

5 * * *

6 (b) To co-operate with industrial development agencies in
7 their efforts to promote the expansion of industrial,
8 manufacturing [and], research and development, biotechnology and
9 small business incubator activity in critical economic areas;

10 * * *

11 Section 4. Section 6(a) of the act, amended July 13, 1988
12 (P.L.534, No.95), is amended to read:

13 Section 6. Powers of the Authority; Loans to Industrial
14 Development Agencies.--When it has been determined by the
15 Authority upon application of an industrial development agency
16 and hearing thereon in the manner hereinafter provided, that the
17 establishment of a particular industrial development project of
18 such industrial development agency in a critical economic area
19 has accomplished or will accomplish the public purposes of this
20 act, the Authority may contract to loan such industrial
21 development agency an amount not in excess of the percentage of
22 the cost of such industrial development project, as established
23 or to be established as hereinafter set forth, subject, however,
24 to the following conditions:

25 (a) Industrial development projects to be established:

26 (1) If the industrial development project is exclusively a
27 research and development facility other than research and
28 development of pollution control technology, the Authority may,
29 in each class of critical economic area, contract to loan the
30 industrial development agency (45%) of the cost of such

1 industrial development project if it has determined that the
2 industrial development agency holds funds or property in an
3 amount or value equal to not less than (5%) of the cost of
4 establishing the industrial development project, which funds or
5 property are available for and shall be applied to the
6 establishment of such project. If the industrial development
7 project is exclusively a research and development facility for
8 technology concerning pollution control, the Authority may
9 contract to loan the industrial development agency in critical
10 economic area A an amount not in excess of (55%) and in a
11 critical economic area B or a critical economic area C an amount
12 not in excess of (50%) of the cost of the industrial development
13 project: Provided, however, That in each such instance, the
14 Authority has determined that the industrial development agency
15 holds funds or property in an amount or value equal to not less
16 than (5%) of the cost of establishing the industrial development
17 project, which funds or property are available for and shall be
18 applied to the establishment of such project.

19 (2) If the industrial development project is any other type
20 of industrial development project than exclusively a research
21 and development facility, the Authority may, in critical
22 economic area A contract to loan the industrial development
23 agency an amount not in excess of (40%) of the cost of such
24 industrial development project if it has determined that the
25 industrial development agency holds funds or property in an
26 amount or value equal to not less than (10%) of the cost of
27 establishing the industrial development project, which funds or
28 property are available for and shall be applied to establishment
29 of such project.

30 (2.1) Where a contract to loan to an industrial development

1 agency is to be made under provisions of this subsection (a),
2 the following shall apply: that, in critical economic areas A, B
3 or C where an average of (8%) or more of the labor force has
4 been unemployed for the preceding calendar year, the Authority
5 may contract to loan the industrial development agency an amount
6 not in excess of (50%) of the cost of an industrial development
7 project and an amount not in excess of (60%) of the cost of an
8 industrial development project wherein the responsible buyer or
9 tenant is a small business on the date of the application; and
10 where an average of (10%) or more of the labor force has been
11 unemployed for the preceding calendar year, the Authority may
12 contract to loan the industrial development agency an amount not
13 in excess of (60%) of the cost of an industrial development
14 project and an amount not in excess of (70%) of the cost of an
15 industrial development project wherein the responsible buyer or
16 tenant is a small business on the date of application; further,
17 provided that in each such instance the industrial development
18 agency project percentage shall be removed. Where a contract to
19 loan to an industrial development agency is to be made under the
20 provisions of this subsection (a), the following shall apply:
21 that, in critical economic areas A, B or C where an average of
22 (4%) or more of the labor force has been unemployed for the
23 preceding calendar year, the Authority may contract to loan the
24 industrial development agency an amount not in excess of (40%)
25 of the cost of an industrial development project wherein the
26 responsible buyer or tenant is a small business and where an
27 average of (6%) or more of the labor force has been unemployed
28 for the preceding calendar year, the Authority may contract to
29 loan the industrial development agency an amount not in excess
30 of (50%) of the cost of an industrial development project

1 wherein the responsible buyer or tenant is a small business and
2 in such latter instance the industrial development agency
3 project percentage shall be removed.

4 (3) If the industrial development project is any other type
5 of industrial development project than exclusively a research
6 and development facility, the Authority may, in critical
7 economic areas B and C, contract to loan the industrial
8 development agency an amount not in excess of (30%) of the cost
9 of such industrial development project if it has determined that
10 the industrial development agency holds funds or property in an
11 amount or value equal to not less than (20%) of the cost of
12 establishing the industrial development project, which funds or
13 property are available for or shall be applied to the
14 establishment of such project.

15 (4) Prior to the making of any loan under this subsection
16 (a), the Authority shall have determined that the industrial
17 development agency has obtained from other independent and
18 responsible sources, such as banks and insurance companies or
19 otherwise, a firm commitment for all other funds, over and above
20 the loan of the Authority and such funds or property as the
21 industrial development agency may hold, necessary for payment of
22 all of the cost of establishing the industrial development
23 project, and that the sum of all these funds, together with the
24 machinery and equipment to be provided by the responsible tenant
25 or responsible buyer, is adequate for the completion and
26 operation of the industrial development project.

27 (5) If the industrial development project is a biotechnology
28 enterprise or if it is a small business incubator, the Authority
29 may contract to loan the industrial development agency an amount
30 not in excess of (40%) of the cost of such industrial

1 development project if it has determined that the industrial
2 development agency holds funds or property in an amount or value
3 equal to not less than (5%) of the cost of establishing the
4 industrial development project, which funds or property are
5 available for and shall be applied to establishment of such
6 project.

7 (6) If the industrial development project is a biotechnology
8 project and otherwise would not qualify based upon existing and
9 projected revenues, the Authority may contract to loan the
10 industrial development agency an amount not in excess of (40%)
11 of the cost of such industrial development project if it has
12 determined that the biotechnology enterprise has at least one
13 million dollars (\$1,000,000) in unencumbered assets and if it
14 has determined that the industrial development agency holds
15 funds or property in an amount or value equal to not less than
16 (5%) of the cost of establishing the industrial development
17 project, which funds or property are available for and shall be
18 applied to establishment of such project.

19 * * *

20 Section 5. Section 7(a) of the act, amended July 10, 1963
21 (P.L.221, No.125), is amended to read:

22 Section 7. Loan Application Requirements.--Prior to the
23 loaning of any funds to an industrial development agency for an
24 industrial development project in a critical economic area, the
25 Authority shall receive from such industrial development agency
26 a loan application in form adopted by the Authority which shall
27 contain, without being limited to, the following provisions:

28 (a) A general description of the industrial development
29 project and a general description of the industrial or
30 manufacturing enterprise [or], research and development

1 facility, biotechnology enterprise or small business incubator
2 for which the industrial development project has been or is to
3 be established;

4 * * *

5 Section 6. This act shall take effect in 60 days.