

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 896 Session of
1999

INTRODUCED BY WENGER, HOLL, HELFRICK, MADIGAN, WAUGH, STAPLETON,
O'PAKE, BRIGHTBILL, ROBBINS, STOUT, PICCOLA, PUNT, SALVATORE,
KASUNIC, WOZNIAK, COSTA AND RHOADES, MAY 3, 1999

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
NOVEMBER 14, 2000

AN ACT

1 Amending the act of December 12, 1994 (P.L.888, No.128),
2 entitled "An act providing for the construction of six
3 anaerobic manure digesters as demonstration projects at
4 select locations in this Commonwealth; and providing for
5 funding," further providing for the title, for legislative
6 intent, for definitions, for development costs, for
7 administration, for building and for funding.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The title and sections 1, 2, 3 and 4 of the act
11 of December 12, 1994 (P.L.888, No.128), known as the Anaerobic
12 Manure Digesters Act, are amended to read:

AN ACT

13
14 Providing for the [construction of six anaerobic manure <—
15 digesters as demonstration projects at select locations in
16 this Commonwealth; {and} providing for funding] and for the <—
17 investigation, study, development and use of animal by-
18 product management technology for normal agricultural
19 operations.

1 Section 1. Short title.

2 This act shall be known and may be cited as the [Anaerobic
3 Manure Digesters] Agricultural By-Product Management Technology
4 Act.

5 Section 2. Legislative findings.

6 The General Assembly finds and declares as follows:

7 (1) The development of [anaerobic manure] economically
8 feasible digesters and other animal by-product management
9 technology across this Commonwealth [to reduce the nitrogen
10 pollution caused by livestock manure] will enhance and
11 encourage environmentally sound and economically feasible
12 agricultural production practices and will result in [a
13 public benefit.] numerous benefits to the agricultural
14 community and society.

15 (2) The development of digesters and animal by-product
16 management technology across this Commonwealth to produce
17 energy, pathogen-free fertilizers, animal feed supplements
18 and clean water will increase revenues for agricultural
19 producers and provide economically feasible and
20 environmentally sound methods of managing manure and other
21 agricultural by-products and nutrients thereby benefiting the
22 environment, the agricultural community and society.

23 (3) The purpose of this act is to [demonstrate the
24 practical nature and the usefulness of anaerobic manure
25 digesters so that Pennsylvania farmers will build digesters
26 for their own use.] investigate, study and advance digesters
27 and animal by-product management technologies that are
28 environmentally sound and economically feasible and to
29 develop programs that encourage and promote the use and
30 development of new technologies. Such programs shall benefit

the agricultural community and society. In addition, this act seeks to assist those engaged in production agriculture to comply with the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, through the use of environmentally sound animal by-product management technologies.

Section 3. Definitions.

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

"Agricultural community." Persons involved in production agriculture and agricultural processing facilities.

"Agricultural processing facilities." Facilities involved in the slaughter and/or processing of livestock or livestock products, milk or dairy products, poultry or poultry products and other facilities approved by the department.

["Anaerobic manure digester" or "digester." A machine that allows manure to decompose anaerobically, releasing methane which is used to drive an electrical generator supplying power to the farm and surplus power which can be sold to an electric utility.]

"Board." The [Anaerobic Manure Digester] Agricultural By-Product Management Technology Board.

["PEO." The Pennsylvania Energy Office.]

"By-product management technology." That technology which the Agricultural By-Product Management Technology Board determines will help, assist or facilitate the reduction of potential pollutants to air or water, diminish odors and pathogens associated with and being the natural result of agricultural production, or any technology that the board

1 determines will further the purpose of this act.

2 "Department." The Department of Agriculture of the
3 Commonwealth.

4 "Digester." A process that through anaerobic or aerobic
5 digestion, photosynthetic purification or a combination of these
6 processes causes the decomposition of manure, animal carcasses,
7 offal and other agricultural by-products and nutrients,
8 resulting in the release of methane, which may be used to supply
9 energy for onsite use and surplus energy which can be sold to
10 electric utilities or private electric companies.

11 "Normal agricultural operation." The activities, practices,
12 equipment and procedures that farmers adopt, use or engage in,
13 in the production and preparation for market of poultry,
14 livestock and their products and in the production, harvesting
15 and preparation for market or use of agricultural, agronomic,
16 horticultural, silvicultural and aquacultural crops and
17 commodities. The term includes new activities, practices,
18 equipment and procedures consistent with technological
19 development within the agricultural industry.

20 "Production agriculture." The management and use of farming
21 resources for the production of agricultural crops, livestock or
22 livestock products, milk or dairy products, poultry or poultry
23 products or for practices approved by the department.

24 "Secretary." The Secretary of Agriculture of the
25 Commonwealth.

26 [Section 4. Development of anaerobic manure digesters.

27 (a) General rule.--

28 (1) The Commonwealth shall finance 80% of the cost of
29 construction of up to six anaerobic manure digesters as
30 demonstration projects at selected working farms in this

1 Commonwealth where livestock is raised. Farmers utilizing
2 digesters shall pay the remaining 20% of the cost of digester
3 construction.

4 (2) After two years of successful digester operation,
5 farmers shall repay funds advanced by the Commonwealth for
6 digester construction in equal installments over 15 years
7 with no interest charge.

8 (3) Should a digester fail to operate, farmers
9 attempting to utilize that digester shall not be required to
10 repay funds advanced by the Commonwealth for construction.

11 (b) Application for demonstration projects.--An application
12 form shall be prepared by the PEO for farmers or groups of
13 farmers to request that a digester be built on their farms or
14 built at a central location. On the application form, farmers or
15 groups of farmers shall describe how they will use the digester
16 to its maximum advantage.

17 (c) Inspections and demonstrations.--The following
18 requirements shall apply to selected demonstration projects:

19 (1) The digesters shall be used continuously and shall
20 be available for inspection by farmers and other members of
21 the public.

22 (2) If a digester is built on a farm, the owner shall
23 allow persons to visit at convenient times.

24 (3) The owner shall provide space for visitors and for
25 appropriate research to be conducted on the digester's
26 operation.

27 (4) Where a digester is built for use by several farms,
28 it shall be constructed to allow for maximum public viewing.

29 (d) Design.--Each digester shall be designed so as to
30 eliminate the use of complex equipment or machinery to allow

1 most of the necessary maintenance to be performed solely by the
2 farmer.]

3 Section 2. The act is amended by adding a section to read:

4 Section 4.1. Powers and duties of department.

5 The department has the following powers and duties:

6 (1) To develop programs which promote education, use and
7 development of economically and environmentally feasible
8 digesters and by-product management technology. Such programs
9 may include loan and grant programs.

10 (2) To work in concert with the board to continually
11 evaluate emerging practices, methods and technology regarding
12 digesters and by-product management technology.

13 (3) To promulgate regulations concerning this act and
14 programs developed under this act. Prior to promulgation of
15 regulations, the department shall have the power to recommend
16 and implement interim guidelines for the purpose of
17 facilitating the initial development of programs established
18 under this act. Such interim guidelines shall be replaced by
19 regulations within two years of their effective date.

20 (4) To review, with the advice of the board, program
21 criteria and to periodically evaluate and make appropriate
22 changes in those criteria by regulation.

23 Section 3. Sections 5, 6 and 7 of the act are amended to
24 read:

25 Section 5. The [Anaerobic Manure Digester] ~~Agriculture~~ <—

26 AGRICULTURAL By-Product Management Technology <—

27 Board.

28 (a) Establishment.--There is established within the [PEO]

29 department an [Anaerobic Manure Digester] ~~Agriculture~~ <—

30 AGRICULTURAL By-Product Management Technology Board. <—

(b) Composition.--The board shall be appointed by the Governor and shall be composed of the following:

[(1) Two persons who own and operate on a continuous basis an anaerobic manure digester.

(2) One person from an electric utility.

(3) One soil nutrient management specialist.

(4) One livestock farmer who does not own a digester.

(5) One person from an environmental protection organization.

(6) One person who shall represent the public.]

(1) The secretary or a designee who shall serve as chairman.

(2) One person who owns and operates on a continuous basis a digester.

(3) One person who represents a by-product management technology business enterprise.

(4) One nutrient management specialist from the private sector who has been commercially certified pursuant to the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act.

(5) One person representing the Pennsylvania Association of Conservation Districts.

(6) One person, not part of the agricultural community, who shall represent the public.

(7) Two active commercial farm owners or operators, at least one representing animal agriculture.

(8) One representative from the agribusiness industry representing agricultural processing facilities.

(9) Two representatives from the Penn State Cooperative Extension Service with expertise in agricultural engineering

1 and by-product management.

2 (10) One representative of the State Conservation
3 Commission.

4 (11) The secretary of the Department of Environmental
5 Protection or a designee.

6 (12) One representative of commercial agricultural
7 lenders.

8 (13) One representative of local government.

9 (c) Expenses of board members.--The members of the board
10 shall not be entitled to compensation for their services as
11 members but shall be entitled to reimbursement for all necessary
12 expenses incurred in connection with the performance of their
13 duties as members of the board.

14 (d) Meetings.--The board shall meet at least semiannually or
15 more frequently if deemed necessary by the chairman.

16 (e) Quorum.--Eight of the members appointed to the board
17 shall constitute a quorum for purposes of conducting meetings
18 and official actions pursuant to authority given to the board
19 under this act. No decision by the board shall be effective
20 unless eight of the board members are actually present and a
21 majority of those present vote to support the decision.

22 (f) Application of member.--A member of the board may apply
23 to take part in any program administered under this act,
24 provided all decisions regarding the program application are
25 subject to the provisions of 65 Pa.C.S. § 1103(j) (relating to
26 restricted activities) and the act of July 19, 1957 (P.L.1017,
27 No.451), known as the State Adverse Interest Act. If any
28 contract or agreement is made in violation of this section, the
29 contract or agreement shall be null and void and no action shall
30 be maintained against the Commonwealth.

1 (g) Powers and duties of board.--The board has the following
2 powers and duties:

3 (1) To work in consultation with the department to
4 continually evaluate advanced technology regarding
5 economically and environmentally feasible digesters and by-
6 product management technologies.

7 (2) To research, review and evaluate by-product
8 management technologies that are environmentally sound and
9 economically feasible and make recommendations to the
10 secretary.

11 (3) To research, review and evaluate specific regional
12 by-product reduction needs and opportunities and to recommend
13 to the secretary appropriate by-product management technology
14 that exists to satisfy those needs.

15 (4) To encourage cooperation among and between the
16 agricultural community, industry and local government
17 regarding the use and development of agricultural by-product
18 management technologies.

19 [Section 6. Digester construction.

20 (a) PEO duties.-- The PEO shall supervise the construction
21 of up to six anaerobic manure digesters provided for in this
22 act.

23 (b) Board duties.-- The board shall:

24 (1) Advise the PEO as to a site and a design for
25 digesters.

26 (2) Consider the feasibility of adopting a single basic
27 design that may be copied easily by others.

28 (3) Approve a digester before releasing funds for its
29 construction.]

30 Section 7. Funding.

1 (a) Availability of funds.--Financing of [the construction
2 of anaerobic manure digesters] digesters and agricultural by-
3 product management technology programs and projects shall be
4 provided to the extent that funds are available.

5 (b) Use of specific appropriation, contributions and other
6 payments.--The [Pennsylvania Energy Office] department is
7 authorized to use funds specifically appropriated by the General
8 Assembly for the purposes of this act and any funds,
9 contributions or payments which may be made available to it by
10 another State agency, the Federal Government or [by] any public
11 or private source for the purpose of implementing the provisions
12 of this act.

13 [(c) Center for Rural Pennsylvania.--The Pennsylvania Energy
14 Office is authorized to submit eligible projects to the Center
15 for Rural Pennsylvania for financing from funds appropriated to
16 the center.

17 (d) Department of Agriculture.--With the concurrence of the
18 Pennsylvania Energy Office, projects eligible for financing
19 under this act shall be eligible for financing under the
20 Agricultural Technology Loan Program in the Department of
21 Agriculture.

22 (e) Department of Commerce.--The Pennsylvania Energy Office
23 is authorized to submit eligible projects under this act to the
24 Department of Commerce for financing under the Ben Franklin/IRC
25 Partnership Fund.]

26 (c) Grant recipient.--The recipient of a grant, loan or
27 other financial assistance or participation in a program
28 developed pursuant to this act shall not preclude an individual,
29 partnership or corporation from receiving grants, loans or other
30 financial assistance or participating in programs pursuant to

1 the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient
2 Management Act, or the act of December 12, 1994 (P.L.900,
3 No.130), known as the Agriculture-Linked Investment Program Act.

4 Section 4. This act shall take effect in 60 days.