

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 191

Session of
1977

INTRODUCED BY MESSRS. TAYLOR, L. E. SMITH, BENNETT, GARZIA,
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A. C. FOSTER, DOMBROWSKI, PYLES AND DeWEESE, FEBRUARY 9, 1977

SENATOR SMITH, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, FEBRUARY 22, 1978

AN ACT

1 ~~Creating the Pennsylvania Energy Council; prescribing its duties~~ <—
2 ~~and powers; providing for the payment of its expenses;~~
3 ~~imposing duties upon Commonwealth departments, commissions~~
4 ~~and other agencies and making an appropriation.~~
5 AMENDING TITLE 66 (PUBLIC UTILITIES) OF THE PENNSYLVANIA <—
6 CONSOLIDATED STATUTES, ADDING PROVISIONS RELATING TO ENERGY
7 CONSERVATION AND CONTROL.
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6 § 4133. CRIMINAL PENALTIES.
7 § 4134. RECOMMENDING LICENSE SUSPENSION OR REVOCATION.

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

10 ~~Section 1. Findings and declaration of policy.~~ <—

11 ~~The General Assembly finds as a fact that there is in~~
12 ~~prospect for the indefinite future a shortage of all forms of~~
13 ~~energy, including oil, natural gas and other fuels and the~~
14 ~~electricity into which such fuels are sometimes converted; and~~
15 ~~that such shortage is likely to curtail industrial activity,~~
16 ~~increase unemployment and threaten the health, welfare and~~
17 ~~comfort of citizens of the Commonwealth.~~

18 ~~The future well being of Pennsylvania makes it imperative~~
19 ~~that the Commonwealth pursue a policy that will result in an~~
20 ~~energy program that will provide adequate supply of power for~~
21 ~~Pennsylvania.~~

22 ~~The General Assembly declares that it is the policy of the~~
23 ~~Commonwealth of Pennsylvania to make plans that will encourage~~
24 ~~the future growth of power supplies and the development of our~~
25 ~~natural resources so that the Commonwealth will progress~~
26 ~~economically, ecologically and socially.~~

27 ~~Because of the complexity of the problem, the diverse factors~~
28 ~~that make up the solution and the need for a coordinated policy~~
29 ~~that crosses departmental authority and local government~~
30 ~~boundary lines, the General Assembly creates the Pennsylvania~~
31 ~~Energy Council as the one authority that has jurisdiction over~~
32 ~~the study of the development and growth of energy resources.~~

33 ~~The council has authority to predict future energy needs of~~

1 ~~the Commonwealth, to outline the course that needs to be pursued~~
2 ~~to keep needs and available supply in balance, to enlist the aid~~
3 ~~of the most competent persons in the energy field and maintain~~
4 ~~continuous surveillance of energy conditions and to make~~
5 ~~recommendations for legislation that would ameliorate or avert~~
6 ~~future energy shortages.~~

7 ~~The Pennsylvania Energy Council shall formulate a~~
8 ~~comprehensive, integrated, long range energy plan for the~~
9 ~~Commonwealth and a program for the utilization of the~~
10 ~~Commonwealth's fuel supplies that will meet the present and~~
11 ~~future energy needs of the people of the Commonwealth.~~

12 ~~Further, it is the policy of the Commonwealth of Pennsylvania~~
13 ~~that individuals, interested groups, representatives of~~
14 ~~governmental bodies, utility representatives and experts in the~~
15 ~~field of energy participate in timely and meaningful public~~
16 ~~hearings as part of the decision making process in the formation~~
17 ~~of such a program and in the selection of sites for facilities~~
18 ~~and transmission routes.~~

19 ~~It is further the policy of the Commonwealth of Pennsylvania~~
20 ~~that every effort be made to make coal the primary source of~~
21 ~~energy in Pennsylvania.~~

22 ~~Section 2. Council established.~~

23 ~~There is hereby created as an arm of the General Assembly a~~
24 ~~Pennsylvania Energy Council composed of 15 members, consisting~~
25 ~~of the Secretary of Commerce, the Secretary of Environmental~~
26 ~~Resources, the Chairman of the Public Utility Commission or~~
27 ~~their respective designees, two members of the State Senate who~~
28 ~~shall be from different political parties and appointed by the~~
29 ~~President pro tempore of the Senate, two members of the House of~~
30 ~~Representatives, who shall be from different political parties~~

1 ~~and appointed by the Speaker of the House and the following to~~
2 ~~be appointed by the Governor: eight citizens, at least two of~~
3 ~~which must be members of consumer or environmental groups and~~
4 ~~four who shall be persons possessing knowledge and experience in~~
5 ~~the supply and use of oil, gas, coal and electricity~~
6 ~~respectively and two from the academic community who have~~
7 ~~expertise in energy related fields. The terms of the members~~
8 ~~appointed by the Governor shall be for three years each. Terms~~
9 ~~of members of the General Assembly will be for two years each,~~
10 ~~except that they shall not serve on the council if their term of~~
11 ~~office has expired.~~

12 ~~The Secretary of Commerce shall serve as temporary chairman~~
13 ~~of the council and shall call the first meeting within 30 days~~
14 ~~after this legislation shall become law. At the initial meeting~~
15 ~~and at the first meeting each year thereafter the commission~~
16 ~~shall elect one of its members as chairman, another as vice~~
17 ~~chairman and a third as secretary. Members shall be reimbursed~~
18 ~~for actual and necessary expenses. The commission may retain and~~
19 ~~fix the salary and compensation for an executive director and~~
20 ~~such professional, clerical and stenographic personnel as it may~~
21 ~~require in accordance with the act of April 9, 1929 (P.L.177,~~
22 ~~No.175), known as "The Administrative Code of 1929" and within~~
23 ~~budgetary limitations.~~

24 ~~Vacancies shall be filled for unexpired terms in the same~~
25 ~~manner as original appointments.~~

26 ~~Section 3.— Compensation.~~

27 ~~None of the members of the council shall receive a salary.~~
28 ~~Expenses actually incurred shall be reimbursed by warrant,~~
29 ~~signed by the executive director or the chairman of the council.~~

30 ~~Section 4.— Planning requirements.~~

1 ~~(a) The council shall prepare, maintain and publish a~~
2 ~~comprehensive, long range and integrated energy resources plan~~
3 ~~for the Commonwealth designed to meet the present and future~~
4 ~~energy needs of the Commonwealth pursuant to this act, as~~
5 ~~follows:~~

6 ~~(1) The council shall deliver such a plan annually to~~
7 ~~the General Assembly of the Commonwealth with the first such~~
8 ~~plan being presented not more than one year from the~~
9 ~~effective date of this act and such additional plans being~~
10 ~~presented on or before the anniversary date of the first~~
11 ~~plan.~~

12 ~~(2) The plan shall include energy supply projections,~~
13 ~~fuel supply projections, fuel supply locations and the need~~
14 ~~for development of energy and fuel supplies in a timely,~~
15 ~~efficient, ecological and economical manner.~~

16 ~~(3) The plan shall include an inventory of potential~~
17 ~~energy sites.~~

18 ~~(4) The council shall, as part of its annual report,~~
19 ~~recommend such legislation to the General Assembly as it~~
20 ~~deems necessary.~~

21 ~~(5) In order to formulate the plan the council may~~
22 ~~require such information as necessary from such corporations,~~
23 ~~cooperatives and municipal corporations as are active in the~~
24 ~~field of power supply, energy or supply of fuel for power~~
25 ~~supply as it may deem necessary and that the office may~~
26 ~~prepare and distribute forms upon which such information~~
27 ~~shall be produced.~~

28 ~~(6) In order to formulate the plan, the council may~~
29 ~~order such public hearings as it may deem necessary, but not~~
30 ~~less than three in different parts of the Commonwealth each~~

1 ~~year, take testimony, issue subpoenas under the seal of the~~
2 ~~director commanding any person to appear at the hearings and~~
3 ~~answer questions touching matters properly being inquired~~
4 ~~into and to produce such books, papers, records and documents~~
5 ~~as deemed necessary.~~

6 ~~(7) In recognition of the diverse factors that enter~~
7 ~~into the public hearings, the council shall invite all~~
8 ~~interested citizens, groups and representatives of political~~
9 ~~subdivisions and others interested to participate in the~~
10 ~~public hearings.~~

11 ~~(8) The council may request and shall receive from any~~
12 ~~unit of local government or any department, board, bureau,~~
13 ~~commission, office or other instrumentality of this~~
14 ~~Commonwealth such assistance and data as it determines is~~
15 ~~necessary or desirable in carrying out this act.~~

16 ~~(9) In order to formulate such plan, the council shall~~
17 ~~be authorized and empowered to undertake any studies,~~
18 ~~inquiries or analysis as it may deem necessary through its~~
19 ~~own personnel, in cooperation with any other private agency~~
20 ~~or through such contracts with such outside experts as it may~~
21 ~~deem necessary, provided that such contracts are made in~~
22 ~~accordance with the act of April 9, 1929 (P.L.177, No.175),~~
23 ~~known as "The Administrative Code of 1929" and within~~
24 ~~budgetary limitations.~~

25 ~~(b) The council may assist in the development of new methods~~
26 ~~of using the energy and fuel resources available within the~~
27 ~~Commonwealth. Special emphasis shall be placed on the~~
28 ~~development of coal as a fuel supply.~~

29 ~~(c) The council shall coordinate programs and plans of~~
30 ~~corporations, cooperatives and municipal authorities in~~

1 ~~conjunction with power supplies and fuel resources.~~

2 ~~(d) The council shall receive from the Council of Civil~~
3 ~~Defense plans to distribute emergency fuel supplies in the case~~
4 ~~of emergency with special emphasis on plans to supply hard to~~
5 ~~reach areas. In the event of such an emergency, the Council of~~
6 ~~Civil Defense, under the direction and control of the council,~~
7 ~~shall distribute emergency fuel supplies in accordance with said~~
8 ~~plan.~~

9 ~~(e) The council is authorized to receive, expend and~~
10 ~~distribute all energy related grants and funds.~~

11 ~~(f) The council is authorized to administer all Federal and~~
12 ~~State energy programs.~~

13 ~~Section 5. Federal coordination.~~

14 ~~The council shall cooperate with Federal and interstate~~
15 ~~authorities and is empowered to act as a coordinating agency~~
16 ~~with Federal and interstate authorities in planning for the~~
17 ~~future energy needs of the Commonwealth.~~

18 ~~In the formulation of the plan, the council shall meet the~~
19 ~~requirements of the Federal Energy Policy and Conservation Act~~
20 ~~(Public Law 94 163), and the Energy Conservation and Production~~
21 ~~Act (Public Law 94 385), including the following:~~

22 ~~(1) Programs to promote carpools and public~~
23 ~~transportation.~~

24 ~~(2) Mandatory lighting efficiency standards for public~~
25 ~~buildings.~~

26 ~~(3) Mandatory thermal efficiency standards and~~
27 ~~insulation requirements on all buildings.~~

28 ~~(4) Mandatory energy efficiency standards.~~

29 ~~(5) Programs for energy conservation.~~

30 ~~Section 6. Abolition.~~

~~The General Assembly hereby abolishes the Governor's Energy Council and all other such organizations within the government of the Commonwealth of Pennsylvania and transfers remaining appropriations from the Governor's Energy Council to the Pennsylvania Energy Council, along with all records, contracts, documents and similar material. All Federal Funds allocated to the Governor's Energy Council shall also be transferred.~~

~~Section 7. Appropriation.~~

~~All money previously appropriated to the Governor's Energy Council from all sources for the fiscal year 1977-1978 and remaining unspent shall be lapsed by the Budget Secretary on the effective date of this act and is hereby specifically reappropriated to the Pennsylvania Energy Council for the remainder of the fiscal year 1977-1978.~~

~~Section 8. Effective date.~~

~~This act shall take effect immediately.~~

SECTION 1. PART II OF TITLE 66, ACT OF NOVEMBER 25, 1970
(P.L.707, NO.230), KNOWN AS THE PENNSYLVANIA CONSOLIDATED
STATUTES, IS AMENDED BY ADDING A CHAPTER TO READ:

TITLE 66

PUBLIC UTILITIES

PART

II. OTHER PROVISIONS

PART II

OTHER PROVISIONS

CHAPTER

41. ENERGY CONSERVATION AND CONTROL

CHAPTER 41

ENERGY CONSERVATION AND CONTROL

SUBCHAPTER

1 A. PRELIMINARY PROVISIONS

2 B. PENNSYLVANIA ENERGY COUNCIL

3 C. ENERGY INFORMATION, PLANNING AND ALLOCATION

4 D. VIOLATIONS AND PENALTIES

5 SUBCHAPTER A

6 PRELIMINARY PROVISIONS

7 SEC.

8 4101. SHORT TITLE OF CHAPTER.

9 4102. FINDINGS AND DECLARATION OF POLICY.

10 4103. DEFINITIONS.

11 § 4101. SHORT TITLE OF CHAPTER.

12 THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE "ENERGY
13 CONSERVATION AND CONTROL LAW."

14 § 4102. FINDINGS AND DECLARATION OF POLICY.

15 THE GENERAL ASSEMBLY FINDS AS A FACT THAT THERE IS IN
16 PROSPECT FOR THE INDEFINITE FUTURE A SHORTAGE OF ALL FORMS OF
17 ENERGY, INCLUDING OIL, NATURAL GAS AND OTHER FUELS AND THE
18 ELECTRICITY INTO WHICH SUCH FUELS ARE SOMETIMES CONVERTED; AND
19 THAT SUCH SHORTAGE IS LIKELY TO CURTAIL INDUSTRIAL ACTIVITY,
20 INCREASE UNEMPLOYMENT AND THREATEN THE HEALTH, WELFARE AND
21 COMFORT OF CITIZENS OF THE COMMONWEALTH.

22 THE FUTURE WELL-BEING OF PENNSYLVANIA MAKES IT IMPERATIVE
23 THAT THE COMMONWEALTH PURSUE A POLICY THAT WILL RESULT IN AN
24 ENERGY PROGRAM THAT WILL PROVIDE ADEQUATE SUPPLY OF ENERGY FOR
25 PENNSYLVANIA.

26 THE GENERAL ASSEMBLY DECLARES THAT IT IS THE POLICY OF THE
27 COMMONWEALTH OF PENNSYLVANIA TO MAKE PLANS THAT WILL ENCOURAGE
28 THE FUTURE GROWTH OF ENERGY SUPPLIES AND THE DEVELOPMENT OF OUR
29 NATURAL RESOURCES SO THAT THE COMMONWEALTH WILL PROGRESS
30 ECONOMICALLY, ECOLOGICALLY AND SOCIALLY.

1 BECAUSE OF THE COMPLEXITY OF THE PROBLEM, THE DIVERSE FACTORS
2 THAT MAKE UP THE SOLUTION AND THE NEED FOR A COORDINATED POLICY
3 THAT CROSSES DEPARTMENTAL AUTHORITY AND LOCAL GOVERNMENT
4 BOUNDARY LINES, THE GENERAL ASSEMBLY CREATES THE PENNSYLVANIA
5 ENERGY COUNCIL TO OVERSEE THE DEVELOPMENT AND GROWTH OF ENERGY
6 RESOURCES IN THE COMMONWEALTH.

7 FURTHER, IT IS THE POLICY OF THE COMMONWEALTH OF PENNSYLVANIA
8 THAT INDIVIDUALS, INTERESTED GROUPS, REPRESENTATIVES OF
9 GOVERNMENTAL BODIES, UTILITY REPRESENTATIVES AND EXPERTS IN THE
10 FIELD OF ENERGY PARTICIPATE IN THE DECISION-MAKING PROCESS OF
11 THE COUNCIL.

12 IT IS FURTHER THE POLICY OF THE COMMONWEALTH OF PENNSYLVANIA
13 THAT EVERY EFFORT BE MADE TO MAKE COAL THE PRIMARY SOURCE OF
14 ENERGY IN PENNSYLVANIA.

15 § 4103. DEFINITIONS.

16 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
17 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE
18 MEANINGS GIVEN TO THEM IN THIS SECTION:

19 "COUNCIL." THE PENNSYLVANIA ENERGY COUNCIL.

20 "DISASTER." A MAN-MADE DISASTER, NATURAL DISASTER OR WAR-
21 CAUSED DISASTER.

22 "DISTRIBUTOR." A PERSON WHO:

23 (1) IMPORTS INTO THIS COMMONWEALTH FUELS FOR USE,
24 DISTRIBUTION, STORAGE OR SALE IN THIS COMMONWEALTH; OR

25 (2) PRODUCES, REFINES, MANUFACTURES, BLENDS OR COMPOUNDS
26 FUELS AND SELLS, USES, STORES OR DISTRIBUTES FUELS WITHIN
27 THIS COMMONWEALTH.

28 "ENERGY." ELECTRICITY HOWEVER GENERATED, FUELS, PETROLEUM
29 PRODUCTS AND GASES, AND ALL POWER DERIVED FROM, OR GENERATED BY,
30 ANY NATURAL OR MAN-MADE AGENT, INCLUDING, BUT NOT LIMITED TO,

1 PETROLEUM PRODUCTS, GASES, SOLAR RADIATION, ATOMIC FISSION OR
2 FUSION, MINERAL FORMATIONS, THERMAL GRADIENTS, WIND OR WATER.

3 "ENERGY FACILITY." ANY PLANT OR OPERATION WHICH PRODUCES,
4 CONVERTS, DISTRIBUTES OR STORES, EXCEPT STORAGE FOR ITS OWN USE,
5 ENERGY OR CONVERTS ONE FORM OF ENERGY TO ANOTHER. THE TERM DOES
6 NOT INCLUDE AN OPERATION CONDUCTED BY A PERSON ACTING ONLY AS A
7 RETAIL DEALER, NOR DOES THE TERM INCLUDE ANY PLANT OR OPERATION
8 WHICH MINES OR PRODUCES ENERGY STRICTLY FOR ITS OWN
9 MANUFACTURING PROCESSES, OR ANY FACILITY UTILIZING WASTE PROCESS
10 HEAT AS AN ENERGY EFFICIENCY MEASURE.

11 "ENERGY INDUSTRY." A PERSON ENGAGED IN THE EXPLORATION,
12 EXTRACTION, TRANSPORTATION, TRANSMISSION, REFINING, PROCESSING,
13 GENERATION, DISTRIBUTION, SALE OR STORAGE OF ENERGY.

14 "EXECUTIVE DIRECTOR." THE DIRECTOR OF THE PENNSYLVANIA
15 ENERGY COUNCIL.

16 "FUEL." COAL, PETROLEUM PRODUCTS, GASES AND NUCLEAR FUEL,
17 INCLUDING ENRICHED URANIUM, U235 AND U238, AND PLUTONIUM, U239.

18 "GASES." NATURAL GAS, METHANE, LIQUIFIED NATURAL GAS,
19 SYNTHETIC NATURAL GAS, COAL GAS AND OTHER MANUFACTURED GASES.

20 "MAN-MADE DISASTER." ANY INDUSTRIAL, NUCLEAR OR
21 TRANSPORTATION ACCIDENT, EXPLOSION, CONFLAGRATION, POWER
22 FAILURE, NATURAL RESOURCE SHORTAGE OR OTHER CONDITION, EXCEPT
23 ENEMY ACTION, RESULTING FROM MAN-MADE CAUSES, SUCH AS OIL SPILLS
24 AND OTHER INJURIOUS ENVIRONMENTAL CONTAMINATION, WHICH THREATENS
25 OR CAUSES DAMAGE TO PROPERTY, HUMAN SUFFERING, HARDSHIP OR LOSS
26 OF LIFE.

27 "NATURAL DISASTER." ANY HURRICANE, TORNADO, STORM, FLOOD,
28 HIGH WATER, WIND-DRIVEN WATER, TIDAL WAVE, EARTHQUAKE,
29 LANDSLIDE, MUDSLIDE, SNOWSTORM, DROUGHT, FIRE, EXPLOSION, OTHER
30 SEVERE WEATHER CONDITION OR OTHER CATASTROPHE WHICH RESULTS IN

1 SUBSTANTIAL DAMAGE TO PROPERTY, HARDSHIP, SUFFERING OR POSSIBLE <—
2 LOSS OF LIFE.

3 "PETROLEUM PRODUCTS." INCLUDES MOTOR GASOLINE, MIDDLE
4 DISTILLATE OILS, RESIDUAL FUEL OILS, AVIATION FUEL, PROPANE,
5 BUTANE, NATURAL GASOLINE, NAPHTHA, GAS OILS, LUBRICATING OILS
6 AND ANY OTHER SIMILAR OR DISSIMILAR LIQUID HYDROCARBONS.

7 "PURCHASE." INCLUDES, IN ADDITION TO ITS ORDINARY MEANING,
8 ANY ACQUISITION OF OWNERSHIP OR POSSESSION INCLUDING BUT NOT
9 LIMITED TO CONDEMNATION BY EMINENT DOMAIN PROCEEDINGS.

10 "RETAIL DEALER." A PERSON WHO ENGAGES IN THE BUSINESS OF
11 SELLING FUELS FROM A FIXED LOCATION INCLUDING BUT NOT LIMITED TO
12 A SERVICE STATION, FILLING STATION, STORE OR GARAGE DIRECTLY TO
13 THE ULTIMATE USERS OF THE FUEL.

14 "SALE." INCLUDES, IN ADDITION TO ITS ORDINARY MEANING, ANY
15 EXCHANGE, GIFT, THEFT OR OTHER DISPOSITION. IN CASES WHERE FUELS
16 ARE EXCHANGED, GIVEN, STOLEN OR OTHERWISE DISPOSED OF, THEY
17 SHALL BE DEEMED TO HAVE BEEN SOLD.

18 "TRADE SECRET." THE WHOLE OR ANY PORTION OR PHASE OF ANY
19 SCIENTIFIC, TECHNICAL OR OTHERWISE PROPRIETARY INFORMATION,
20 DESIGN, PROCESS, PROCEDURE, FORMULA OR IMPROVEMENT WHICH IS USED
21 IN ONE'S BUSINESS AND IS SECRET AND OF VALUE; AND A TRADE SECRET
22 SHALL BE PRESUMED TO BE SECRET WHEN THE OWNER TAKES MEASURES TO
23 PREVENT IT FROM BECOMING AVAILABLE TO PERSONS OTHER THAN THOSE
24 SELECTED BY THE OWNER TO HAVE ACCESS THERETO FOR LIMITED
25 PURPOSES.

26 "WAR-CAUSED DISASTER." ANY CONDITION FOLLOWING AN ATTACK
27 UPON THE UNITED STATES RESULTING IN SUBSTANTIAL DAMAGE TO
28 PROPERTY OR INJURY TO PERSONS IN THE UNITED STATES CAUSED BY USE
29 OF BOMBS, MISSILES, SHELLFIRE, NUCLEAR, RADIOLOGICAL, CHEMICAL
30 OR BIOLOGICAL MEANS, OR OTHER WEAPONS OR OVERT PARAMILITARY

1 ACTIONS, OR OTHER CONDITIONS SUCH AS SABOTAGE.

2 "WHOLESALE DEALER." A PERSON WHO ENGAGES IN THE BUSINESS OF
3 SELLING FUELS TO OTHER PERSONS WHO RESELL THE FUEL.

4 SUBCHAPTER B

5 PENNSYLVANIA ENERGY COUNCIL

6 SEC.

7 4111. ESTABLISHMENT OF COUNCIL.

8 4112. ORGANIZATION OF COUNCIL.

9 4113. POWERS AND DUTIES.

10 4114. UTILIZATION OF EXISTING SERVICES AND FACILITIES.

11 4115. ACCESS TO FACILITIES AND RECORDS OF ENERGY INDUSTRIES.

12 4116. SUBPOENA AND EXAMINATION OF WITNESSES AND DOCUMENTS.

13 4117. ENFORCEMENT OF SUBPOENA AND ACCESS POWERS.

<—

14 § 4111. ESTABLISHMENT OF COUNCIL.

15 THERE IS HEREBY ESTABLISHED THE PENNSYLVANIA ENERGY COUNCIL
16 TO ASSIST IN THE DIRECTION, CONTROL AND COORDINATION OF ENERGY
17 RESOURCES.

18 § 4112. ORGANIZATION OF COUNCIL.

19 (A) COMPOSITION.--THE COUNCIL SHALL CONSIST OF THE GOVERNOR
20 EX OFFICIO, LIEUTENANT GOVERNOR, ADJUTANT GENERAL, CHAIRMAN OF
21 THE OFFICE OF EMERGENCY PREPAREDNESS, CHAIRMAN OF THE PUBLIC
22 UTILITY COMMISSION, SECRETARY OF ENVIRONMENTAL RESOURCES,
23 SECRETARY OF TRANSPORTATION, SECRETARY OF COMMERCE, SECRETARY OF
24 COMMUNITY AFFAIRS OR THEIR DESIGNEES, TWO MEMBERS OF THE SENATE,
25 WHO SHALL BE FROM DIFFERENT POLITICAL PARTIES AND WHO SHALL BE
26 APPOINTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE, TWO
27 MEMBERS OF THE HOUSE OF REPRESENTATIVES, WHO SHALL BE FROM
28 DIFFERENT POLITICAL PARTIES AND WHO SHALL BE APPOINTED BY THE
29 SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THEIR DESIGNEES AND
30 EIGHT CITIZENS, TO BE APPOINTED FOR TERMS OF THREE YEARS BY THE

1 GOVERNOR BY AND WITH THE ADVICE AND CONSENT OF A MAJORITY OF THE
2 MEMBERS ELECTED TO THE SENATE, TWO OF WHOM SHALL BE MEMBERS OF
3 THE GENERAL PUBLIC, TWO OF WHOM SHALL BE ELECTED MUNICIPAL
4 GOVERNMENT OFFICIALS AND FOUR OF WHOM SHALL ~~EITHER~~ BE PERSONS <—
5 POSSESSING KNOWLEDGE AND EXPERIENCE IN THE FIELDS OF OIL, GAS,
6 COAL ~~OR~~ AND ELECTRICITY, RESPECTIVELY. TERMS OF MEMBERS OF THE <—
7 GENERAL ASSEMBLY WILL BE FOR TWO YEARS EACH, EXCEPT THAT THEY
8 SHALL NOT SERVE ON THE COUNCIL IF THEIR TERM OF OFFICE HAS
9 EXPIRED. VACANCIES SHALL BE FILLED FOR UNEXPIRED TERMS IN THE
10 SAME MANNER AS ORIGINAL APPOINTMENTS.

11 (B) OFFICERS, QUORUM AND MEETINGS.--THE LIEUTENANT GOVERNOR
12 SHALL BE THE CHAIRMAN AND THE COUNCIL SHALL AT THE INITIAL
13 MEETING AND AT THE FIRST MEETING EACH YEAR THEREAFTER ELECT A
14 VICE CHAIRMAN AND A SECRETARY FROM THE MEMBERSHIP. ELEVEN <—
15 MEMBERS OF THE COUNCIL SHALL CONSTITUTE A QUORUM. THE COUNCIL
16 SHALL MEET WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THIS ACT AND
17 THEREAFTER AT THE CALL OF THE CHAIRMAN OR A MAJORITY OF ITS
18 MEMBERS.

19 (C) EMPLOYEES AND EXPENDITURES.--THE COUNCIL MAY EMPLOY AN
20 EXECUTIVE DIRECTOR AND SUCH TECHNICAL, CLERICAL, STENOGRAPHIC
21 AND OTHER PERSONNEL, ~~FIX THEIR COMPENSATION~~ WHOSE COMPENSATION <—
22 SHALL BE FIXED BY THE EXECUTIVE BOARD AND MAY MAKE SUCH
23 EXPENDITURES WITHIN THE APPROPRIATION THEREFOR OR OTHER FUNDS
24 MADE AVAILABLE TO IT AS ARE NECESSARY TO CARRY OUT THE PURPOSES
25 OF THIS CHAPTER.

26 (D) COMPENSATION AND EXPENSES.--THE MEMBERS OF THE COUNCIL
27 SHALL SERVE WITHOUT COMPENSATION BUT MAY BE REIMBURSED FOR THEIR
28 ACTUAL AND NECESSARY TRAVELING AND OTHER EXPENSES INCURRED IN
29 CONNECTION WITH ATTENDANCE UPON MEETINGS OF THE COUNCIL.

30 (E) OFFICES, EQUIPMENT AND SUPPLIES.--THE COUNCIL SHALL BE

1 PROVIDED WITH APPROPRIATE OFFICE SPACE, FURNITURE, EQUIPMENT,
2 SUPPLIES, STATIONERY AND PRINTING IN THE SAME MANNER AS OTHER
3 COMMONWEALTH AGENCIES ARE SUPPLIED.

4 (F) CONFLICT OF INTEREST.--NO PERSON WHO IS AN OFFICIAL OR
5 EMPLOYEE OF THE COUNCIL SHALL PARTICIPATE IN ANY MANNER IN ANY
6 DECISION OR ACTION OF THE COUNCIL WHEREIN THE OFFICIAL OR
7 EMPLOYEE HAS A DIRECT OR INDIRECT FINANCIAL INTEREST.

8 (G) APPLICABILITY OF OTHER LAW.--THE COUNCIL SHALL BE
9 SUBJECT TO THE PROVISIONS OF THE ACT OF APRIL 9, 1929 (P.L.177,
10 NO.175), KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," EXCEPT AS
11 ~~IN THIS PART~~ OTHERWISE PROVIDED IN THIS CHAPTER. <—

12 § 4113. POWERS AND DUTIES.

13 THE COUNCIL SHALL:

14 (1) BE THE CENTRAL REPOSITORY WITHIN THIS COMMONWEALTH
15 FOR THE COLLECTION OF ENERGY INFORMATION.

16 (2) COLLECT AND ANALYZE DATA RELATING TO PRESENT AND
17 FUTURE DEMANDS AND RESOURCES FOR ALL FORMS OF ENERGY.

18 (3) HAVE AUTHORITY TO REQUIRE ANY ENERGY INDUSTRY WITHIN
19 THIS COMMONWEALTH TO SUBMIT SUCH INFORMATION AS SHALL BE
20 REQUIRED TO CARRY OUT THE PROVISIONS OF THIS CHAPTER
21 INCLUDING BUT NOT LIMITED TO INFORMATION NECESSARY FOR
22 DETERMINING THE IMPACT OF ANY CONSTRUCTION OR DEVELOPMENT ON
23 THE PRODUCTION, DISTRIBUTION, CONSUMPTION OR CONSERVATION OF
24 ENERGY WITHIN THIS COMMONWEALTH.

25 (4) ESTABLISH AN ENERGY INFORMATION SYSTEM WHICH WILL
26 PROVIDE FOR THE FORECASTING AND PUBLISHING OF ANTICIPATED
27 ENERGY SHORTAGES AND WHICH WILL PROVIDE ALL DATA NECESSARY TO
28 INSURE A FAIR AND EQUITABLE DISTRIBUTION OF AVAILABLE ENERGY,
29 PERMIT A MORE EFFICIENT AND EFFECTIVE USE OF AVAILABLE ENERGY
30 AND PROVIDE THE BASIS FOR LONG-TERM PLANNING RELATED TO

1 ENERGY NEEDS.

2 (5) INFORM AND EDUCATE THE PUBLIC ABOUT THE WAYS IN
3 WHICH ENERGY CAN BE CONSERVED.

4 (6) MONITOR PRICES CHARGED FOR ENERGY WITHIN THIS
5 COMMONWEALTH, EVALUATE POLICIES GOVERNING THE ESTABLISHMENT
6 OF RATES AND PRICES FOR ENERGY AND MAKE RECOMMENDATIONS FOR
7 NECESSARY CHANGES IN THESE POLICIES TO OTHER CONCERNED
8 FEDERAL AND COMMONWEALTH AGENCIES AND TO THE GENERAL
9 ASSEMBLY.

10 (7) HAVE AUTHORITY TO CONDUCT AND SUPERVISE RESEARCH
11 PROJECTS AND PROGRAMS FOR THE PURPOSE OF INCREASING THE
12 EFFICIENCY OF ENERGY USE, DEVELOPING NEW SOURCES OF ENERGY,
13 EVALUATING ENERGY CONSERVATION MEASURES AND MEETING OTHER
14 GOALS CONSISTENT WITH THE INTENT OF THIS CHAPTER, AND IT MAY
15 DO SO IN COOPERATION WITH ANY OTHER PUBLIC OR PRIVATE AGENCY
16 OR THROUGH SUCH CONTRACTS WITH SUCH OUTSIDE EXPERTS AS IT MAY
17 DEEM NECESSARY, PROVIDED THAT SUCH CONTRACTS ARE MADE IN
18 ACCORDANCE WITH THE ACT OF APRIL 9, 1929 (P.L.177, NO.175),
19 KNOWN AS "THE ADMINISTRATIVE CODE OF 1929," AND WITHIN
20 BUDGETARY LIMITATIONS. THE COUNCIL SHALL PLACE SPECIAL
21 EMPHASIS ON THE DEVELOPMENT OF ENERGY AND FUEL RESOURCES
22 AVAILABLE WITHIN THE COMMONWEALTH, ESPECIALLY COAL.

23 (8) HAVE AUTHORITY TO DISTRIBUTE AND EXPEND FUNDS MADE
24 AVAILABLE FOR THE PURPOSE OF RESEARCH PROJECTS AND PROGRAMS.

25 (9) HAVE AUTHORITY TO ENTER INTO INTERSTATE COMPACTS IN
26 ORDER TO CARRY OUT ENERGY RESEARCH AND PLANNING WITH OTHER
27 STATES OR THE FEDERAL GOVERNMENT WHERE APPROPRIATE.

28 (10) HAVE AUTHORITY TO APPLY FOR, ACCEPT AND EXPEND
29 GRANTS-IN-AID AND ASSISTANCE FROM PRIVATE AND PUBLIC SOURCES
30 FOR ENERGY PROGRAMS. NOTWITHSTANDING ANY OTHER LAW TO THE

1 CONTRARY, THE COUNCIL IS DESIGNATED AS THE COMMONWEALTH
2 AGENCY TO APPLY FOR, RECEIVE AND EXPEND FEDERAL AND OTHER
3 FUNDING MADE AVAILABLE TO THE COMMONWEALTH FOR THE PURPOSES
4 OF THIS CHAPTER SUBJECT TO APPROPRIATION BY THE GENERAL
5 ASSEMBLY.

6 (11) HAVE AUTHORITY TO ADOPT AND PROMULGATE RULES AND
7 REGULATIONS NECESSARY AND PROPER TO CARRY OUT THE PURPOSES OF
8 THIS CHAPTER.

9 (12) ADMINISTER SUCH REGULATIONS OF AGENCIES OF THE
10 FEDERAL GOVERNMENT AS ARE APPLICABLE TO THE STATES INCLUDING
11 BUT NOT LIMITED TO STATE ENERGY CONSERVATION PLANS.

12 § 4114. UTILIZATION OF EXISTING SERVICES AND FACILITIES.

13 IN ORDER TO AVOID DUPLICATION OF SERVICES AND FACILITIES, THE
14 COUNCIL SHALL UTILIZE THE SERVICES AND FACILITIES OF EXISTING
15 OFFICERS AND AGENCIES OF THE COMMONWEALTH AND THE POLITICAL
16 SUBDIVISIONS THEREOF. THESE OFFICERS AND AGENCIES SHALL
17 COOPERATE WITH AND EXTEND THEIR SERVICES AND FACILITIES TO THE
18 COUNCIL AS IT SHALL REQUEST.

19 § 4115. ACCESS TO FACILITIES AND RECORDS OF ENERGY INDUSTRIES.

20 THE COUNCIL SHALL HAVE FULL POWER AND AUTHORITY WHENEVER IT
21 SHALL DEEM IT NECESSARY OR PROPER IN CARRYING OUT ANY OF THE
22 PROVISIONS OF THIS CHAPTER TO ENTER UPON THE PREMISES,
23 BUILDINGS, MACHINERY, SYSTEM, PLANT OR EQUIPMENT AND MAKE ANY
24 INSPECTION, VALUATION, PHYSICAL EXAMINATION, INQUIRY OR
25 INVESTIGATION OF ANY AND ALL PLANT AND EQUIPMENT, FACILITIES,
26 PROPERTY AND PERTINENT RECORDS, BOOKS, PAPERS, MEMORANDA,
27 DOCUMENTS OR EFFECTS WHATSOEVER OF ANY ENERGY INDUSTRY, AND TO
28 HOLD ANY HEARING FOR SUCH PURPOSES. IN THE EXERCISE OF THESE
29 POWERS, THE COUNCIL MAY HAVE ACCESS TO AND USE ANY BOOKS,
30 RECORDS OR DOCUMENTS IN THE POSSESSION OF ANY AGENCY OF THE

1 COMMONWEALTH OR ANY POLITICAL SUBDIVISION THEREOF. THE COUNCIL
2 SHALL PRESERVE THE CONFIDENTIALITY OF ANY TRADE SECRETS OF WHICH
3 IT LEARNS IN THE EXERCISE OF THE POWERS GRANTED BY THIS SECTION.

4 § 4116. SUBPOENA AND EXAMINATION OF WITNESSES AND DOCUMENTS.

5 (A) GENERAL RULE.--THE COUNCIL SHALL HAVE THE POWER, IN ANY
6 PART OF THIS COMMONWEALTH, TO SUBPOENA WITNESSES, ADMINISTER
7 OATHS, EXAMINE WITNESSES OR TAKE SUCH TESTIMONY, OR COMPEL THE
8 PRODUCTION OF SUCH BOOKS, RECORDS, PAPERS AND DOCUMENTS AS IT
9 MAY DEEM NECESSARY OR PROPER IN AND PERTINENT TO ANY PROCEEDING,
10 INVESTIGATION OR HEARING HELD OR HAD BY IT AND TO DO ALL
11 NECESSARY AND PROPER THINGS AND ACTS IN THE LAWFUL EXERCISE OF
12 ITS POWERS OR THE PERFORMANCE OF ITS DUTIES. THE COUNCIL SHALL
13 PRESERVE THE CONFIDENTIALITY OF ANY TRADE SECRETS OF WHICH IT
14 LEARNS IN THE EXERCISE OF THE POWERS GRANTED BY THIS SECTION.

15 (B) FEES FOR SERVING SUBPOENA.--THE FEES FOR SERVING A
16 SUBPOENA SHALL BE THE SAME AS THOSE PAID SHERIFFS FOR SIMILAR
17 SERVICES.

18 (C) PENALTY.--IT IS A SUMMARY OFFENSE FOR ANY INDIVIDUAL
19 SUBPOENAED TO ATTEND BEFORE THE COUNCIL, OR ITS REPRESENTATIVE
20 TO FAIL TO OBEY THE COMMAND OF THE SUBPOENA, OR FOR ANY
21 INDIVIDUAL IN ATTENDANCE BEFORE THE COUNCIL OR ITS
22 REPRESENTATIVE TO REFUSE TO BE SWORN OR TO BE EXAMINED, OR TO
23 ANSWER ANY RELEVANT QUESTION, OR TO PRODUCE ANY RELEVANT DATA,
24 BOOK, RECORD, PAPER OR DOCUMENT WHEN ORDERED SO TO DO BY THE
25 COUNCIL OR ITS REPRESENTATIVE.

26 § 4117. ENFORCEMENT OF SUBPOENA AND ACCESS POWERS.

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27 WHENEVER AN ENERGY INDUSTRY REFUSES TO GRANT OR RAISES
28 OBJECTIONS TO THE COUNCIL'S POWER OF ACCESS OR SUBPOENA
29 AUTHORIZED PURSUANT TO SECTION 4115 (RELATING TO ACCESS TO
30 FACILITIES AND RECORDS OF ENERGY INDUSTRIES) OR SECTION 4116

(RELATING TO SUBPOENA AND EXAMINATION OF WITNESSES AND DOCUMENTS), THE COUNCIL MAY PETITION THE COMMONWEALTH COURT FOR AN IMMEDIATE HEARING TO DETERMINE WHETHER THE REQUEST FOR ACCESS OR SUBPOENA OF THE COUNCIL SHALL BE UPHELD. UPON A SHOWING BY THE COUNCIL THAT THE REQUESTED ACCESS OR SUBPOENA IS NECESSARY TO IMPLEMENT THIS ACT, THE COURT SHALL UPHOLD THE COUNCIL UNDER SUCH CONDITIONS AS IT DEEMS APPROPRIATE.

SUBCHAPTER C

ENERGY INFORMATION, PLANNING AND ALLOCATION

SEC.

4121. PERIODIC REPORTS FROM ENERGY INDUSTRIES.

4122. UTILIZATION OF PREVIOUSLY SUPPLIED INFORMATION.

4123. MASTER ENERGY PLAN.

4124. EMERGENCY ENERGY ALLOCATION PLAN.

4125. DECLARATION BY GOVERNOR OF DISASTER EMERGENCY.

4126. POWERS DURING DISASTER EMERGENCY.

§ 4121. PERIODIC REPORTS FROM ENERGY INDUSTRIES.

(A) GENERAL RULE.--THE COUNCIL SHALL ADOPT RULES AND REGULATIONS REQUIRING THE PERIODIC REPORTING BY ENERGY INDUSTRIES OF ENERGY INFORMATION WHICH SHALL INCLUDE BUT NOT BE LIMITED TO THE FOLLOWING:

(1) ELECTRICAL GENERATING CAPACITY IN THIS COMMONWEALTH; LONG-RANGE PLANS FOR ADDITIONS TO THAT CAPACITY; EFFICIENCY OF ELECTRICAL GENERATION; PRICE AND COST FACTORS IN ELECTRICAL GENERATION; TYPES AND QUANTITIES OF FUELS USED; PROJECTIONS OF FUTURE DEMAND, CONSUMPTION OF ELECTRICITY BY SECTORS; AND TIMES, DURATION AND LEVELS OF PEAK DEMAND.

(2) PETROLEUM REFINING CAPACITY; AMOUNT AND TYPE OF FUEL PRODUCED; AMOUNT AND TYPE OF FUEL SOLD; INTERSTATE TRANSFERS OF FUEL; PRICE AND COST FACTORS IN REFINING, PRODUCTION AND

1 SALE; LONG-TERM PLANS FOR ALTERATIONS OR ADDITIONS TO
2 REFINING CAPACITY; AND LOCATION, AMOUNT AND TYPE OF FUEL
3 STORAGE.

4 (3) STORAGE CAPACITY FOR GASES; AMOUNT AND END USES OF
5 GASES SOLD; AND PRICE AND COST FACTORS IN THE SALE AND USE OF
6 GASES.

7 (4) PRICE AND COST FACTORS IN THE SALE AND USE OF FUEL
8 OIL; INTERSTATE TRANSFERS OF FUEL OIL; AMOUNT AND TYPE OF
9 FUEL OIL SOLD; LONG-TERM PLANS FOR ALTERATIONS OR ADDITIONS
10 TO STORAGE CAPACITY; AND LOCATION, AMOUNT AND TYPE OF FUEL
11 OIL STORAGE.

12 (5) SUCH OTHER INFORMATION AS THE COUNCIL MAY DETERMINE
13 NECESSARY FOR CARRYING OUT THE PURPOSES OF THIS CHAPTER.

14 (B) FILING COPIES OF REPORTS TO FEDERAL AGENCIES.--THE
15 COUNCIL MAY REQUIRE THE ENERGY INDUSTRY OR PERSON TO FILE WITH
16 IT A COPY OF ANY REPORT FILED BY THE ENERGY INDUSTRY OR PERSON
17 WITH ANY FEDERAL AGENCY.

18 (C) OATH OR AFFIRMATION.--ALL INFORMATION SUBMITTED SHALL BE
19 UNDER OATH OR AFFIRMATION WHEN REQUIRED BY THE COUNCIL.

20 (D) ANNUAL REPORT ANALYZING INFORMATION.--THE COUNCIL SHALL
21 AT LEAST ANNUALLY PUBLISH A REPORT ANALYZING ALL ENERGY
22 INFORMATION COLLECTED, BUT SHALL NOT EXPLICITLY PUBLISH ANY
23 TRADE SECRET OR PUBLISH ANY INFORMATION WHICH COULD HAVE THE
24 EFFECT OF DISCLOSING A TRADE SECRET.

25 § 4122. UTILIZATION OF PREVIOUSLY SUPPLIED INFORMATION.

26 IN ORDER TO AVOID DUPLICATION OF REPORTING BY THE ENERGY
27 INDUSTRY, THE COUNCIL SHALL UTILIZE ANY INFORMATION PREVIOUSLY
28 SUPPLIED TO OFFICERS AND AGENCIES OF THIS COMMONWEALTH AND
29 POLITICAL SUBDIVISIONS THEREOF. THESE OFFICERS AND AGENCIES
30 SHALL COOPERATE WITH AND SUPPLY TO THE COUNCIL SUCH INFORMATION

1 AS THE COUNCIL SHALL REQUEST.

2 § 4123. MASTER ENERGY PLAN.

3 (A) GENERAL RULE.--THE COUNCIL SHALL PREPARE AND, AFTER
4 PUBLIC HEARING, ADOPT WITHIN ONE YEAR FROM THE EFFECTIVE DATE OF
5 THIS ACT A MASTER PLAN FOR A PERIOD OF TEN YEARS ON THE
6 PRODUCTION, DISTRIBUTION, CONSUMPTION AND CONSERVATION OF ENERGY
7 IN THIS COMMONWEALTH AND SHALL DELIVER THE PLAN AND ANY
8 AMENDMENTS THERETO TO THE GENERAL ASSEMBLY.

9 (B) CONTENTS, AMENDMENTS AND PREPARING PLAN.--THE PLAN SHALL
10 INCLUDE LONG-TERM OBJECTIVES BUT SHALL PROVIDE FOR THE INTERIM
11 IMPLEMENTATION OF MEASURES CONSISTENT WITH THESE OBJECTIVES. THE
12 PLAN SHALL ALSO INCLUDE ENERGY AND FUEL SUPPLY PROJECTIONS,
13 ENERGY AND FUEL SUPPLY LOCATIONS AND DETERMINATION OF THE NEED
14 FOR AND WAYS OF ATTAINING DEVELOPMENT OF ENERGY AND FUEL
15 SUPPLIES IN A TIMELY, EFFICIENT, ECOLOGICAL AND ECONOMICAL
16 MANNER. THE COUNCIL MAY FROM TIME TO TIME AND AFTER PUBLIC
17 HEARING AMEND THE MASTER PLAN TO MAINTAIN AND KEEP THE PLAN
18 CURRENT. IN PREPARING THE MASTER PLAN OR ANY PORTION THEREOF OR
19 AMENDMENT THERETO THE COUNCIL SHALL GIVE DUE CONSIDERATION TO
20 THE ENERGY NEEDS AND SUPPLIES IN THE SEVERAL GEOGRAPHIC AREAS OF
21 THIS COMMONWEALTH, AND SHALL HOLD A PUBLIC HEARING IN NOT LESS
22 THAN THREE DIFFERENT PARTS OF THE COMMONWEALTH EACH YEAR FOR
23 SUCH PURPOSE.

24 (C) COOPERATION AND COMPLIANCE WITH OTHER AGENCIES AND
25 FEDERAL LAW.--THE COUNCIL SHALL CONSULT AND COOPERATE WITH ANY
26 FEDERAL OR COMMONWEALTH AGENCY HAVING AN INTEREST IN THE
27 PRODUCTION, DISTRIBUTION, CONSUMPTION OR CONSERVATION OF ENERGY.
28 IN THE FORMULATION OF THE MASTER PLAN, THE COUNCIL SHALL MEET
29 THE REQUIREMENTS OF THE FEDERAL ENERGY POLICY AND CONSERVATION
30 ACT (PUBLIC LAW 94-163), AND THE ENERGY CONSERVATION AND

1 PRODUCTION ACT (PUBLIC LAW 94-385), INCLUDING THE FOLLOWING:

2 (1) PROGRAMS TO PROMOTE CARPOOLS AND PUBLIC
3 TRANSPORTATION.

4 (2) MANDATORY LIGHTING EFFICIENCY STANDARDS FOR PUBLIC
5 BUILDINGS.

6 (3) MANDATORY THERMAL EFFICIENCY STANDARDS AND
7 INSULATION REQUIREMENTS ON ALL BUILDINGS.

8 (4) MANDATORY ENERGY EFFICIENCY STANDARDS.

9 (5) PROGRAMS FOR ENERGY CONSERVATION.

10 § 4124. EMERGENCY ENERGY ALLOCATION PLAN.

11 THE COUNCIL SHALL PREPARE AND ADOPT, IN CONJUNCTION WITH THE
12 PUBLIC UTILITY COMMISSION AND THE OFFICE OF EMERGENCY
13 PREPAREDNESS, AN EMERGENCY ALLOCATION PLAN, INCLUDING A SCHEDULE
14 OF EMERGENCY ENERGY CURTAILMENT BASED ON A UNIFORM
15 CLASSIFICATION OF ENERGY CUSTOMERS, SPECIFYING ACTIONS TO BE
16 TAKEN IN THE EVENT OF A DISASTER EMERGENCY AS PROCLAIMED BY THE
17 GOVERNOR PURSUANT TO SECTION 4125 (RELATING TO DECLARATION BY
18 GOVERNOR OF DISASTER EMERGENCY). THE COUNCIL SHALL DIRECT ALL
19 COMMONWEALTH AGENCIES TO DEVELOP, SUBJECT TO APPROVAL BY THE
20 COUNCIL, CONTINGENCY PLANS FOR DEALING WITH THESE EMERGENCIES.
21 IN ANY EVENT, THOSE PORTIONS OF SUCH EMERGENCY ALLOCATION PLANS
22 OR CONTINGENCY PLANS SPECIFICALLY PERTAINING TO ENERGY
23 INDUSTRIES REGULATED BY THE PUBLIC UTILITY COMMISSION SHALL BE
24 INITIALLY PREPARED AND THEREAFTER REVISED BY THE PUBLIC UTILITY
25 COMMISSION, AT THE REQUEST OF AN WITH THE APPROVAL OF THE
26 COUNCIL IN SUCH TIME PERIOD AS THE COUNCIL SHALL DIRECT.

27 § 4125. DECLARATION BY GOVERNOR OF DISASTER EMERGENCY.

28 (A) RESPONSIBILITY TO MEET DISASTERS.--THE GOVERNOR IS
29 RESPONSIBLE FOR MEETING THE DANGERS TO THIS COMMONWEALTH AND
30 PEOPLE PRESENTED BY DISASTERS.

1 (B) EXECUTIVE ORDERS, PROCLAMATIONS AND REGULATIONS.--UNDER
2 THIS CHAPTER, THE GOVERNOR MAY ISSUE, AMEND AND RESCIND
3 EXECUTIVE ORDERS, PROCLAMATIONS AND REGULATIONS WHICH SHALL HAVE
4 THE FORCE AND EFFECT OF LAW.

5 (C) DECLARATION OF DISASTER EMERGENCY.--A DISASTER EMERGENCY
6 SHALL BE DECLARED BY EXECUTIVE ORDER OR PROCLAMATION OF THE
7 GOVERNOR UPON FINDING THAT A DISASTER HAS OCCURRED OR THAT THE
8 OCCURRENCE OR THE THREAT OF A DISASTER IS IMMINENT. THE STATE OF
9 DISASTER EMERGENCY SHALL CONTINUE UNTIL THE GOVERNOR FINDS THAT
10 THE THREAT OR DANGER HAS PASSED OR THE DISASTER HAS BEEN DEALT
11 WITH TO THE EXTENT THAT EMERGENCY CONDITIONS NO LONGER EXIST AND
12 TERMINATES THE STATE OF DISASTER EMERGENCY BY EXECUTIVE ORDER OR
13 PROCLAMATION, BUT NO STATE OF DISASTER EMERGENCY MAY CONTINUE
14 FOR LONGER THAN 30 DAYS UNLESS RENEWED BY THE GOVERNOR. THE
15 GENERAL ASSEMBLY BY CONCURRENT RESOLUTION MAY TERMINATE A STATE
16 OF DISASTER EMERGENCY AT ANY TIME. THEREUPON, THE GOVERNOR SHALL
17 ISSUE AN EXECUTIVE ORDER OR PROCLAMATION ENDING THE STATE OF
18 DISASTER EMERGENCY. ALL EXECUTIVE ORDERS OR PROCLAMATIONS ISSUED
19 UNDER THIS SUBSECTION SHALL INDICATE THE NATURE OF THE DISASTER,
20 THE AREA OR AREAS THREATENED AND THE CONDITIONS WHICH HAVE
21 BROUGHT THE DISASTER ABOUT OR WHICH MAKE POSSIBLE TERMINATION OF
22 THE STATE OF DISASTER EMERGENCY. AN EXECUTIVE ORDER OR
23 PROCLAMATION SHALL BE DISSEMINATED PROMPTLY BY MEANS CALCULATED
24 TO BRING ITS CONTENTS TO THE ATTENTION OF THE GENERAL PUBLIC
25 AND, UNLESS THE CIRCUMSTANCES ATTENDANT UPON THE DISASTER
26 PREVENT OR IMPEDE, SHALL BE PROMPTLY FILED WITH THE COUNCIL.

27 § 4126. POWERS DURING DISASTER EMERGENCY.

28 (A) GENERAL RULE.--THE COUNCIL IS AUTHORIZED, IN THE EVENT
29 OF A DISASTER EMERGENCY AS PROCLAIMED BY THE GOVERNOR PURSUANT
30 TO SECTION 4125 (RELATING TO DECLARATION BY GOVERNOR OF DISASTER

1 EMERGENCY), TO THE EXTENT NOT IN CONFLICT WITH APPLICABLE
2 FEDERAL LAW OR REGULATION BUT NOTWITHSTANDING ANY STATE OR LOCAL
3 LAW OR CONTRACTUAL AGREEMENT, TO:

4 (1) ORDER ANY PERSON TO REDUCE BY A SPECIFIED AMOUNT THE
5 USE OF ANY ENERGY FORM; TO MAKE USE OF AN ALTERNATE ENERGY
6 FORM, WHERE POSSIBLE; OR TO CEASE THE USE OF ANY ENERGY FORM.

7 (2) ORDER ANY PERSON ENGAGED IN THE DISTRIBUTION OF ANY
8 ENERGY FORM TO REDUCE OR INCREASE BY A SPECIFIED AMOUNT OR TO
9 CEASE THE DISTRIBUTION OF THE ENERGY FORM; TO DISTRIBUTE A
10 SPECIFIED AMOUNT AND TYPE OF ENERGY FORM TO CERTAIN USERS AS
11 SPECIFIED BY THE COUNCIL; OR TO SHARE SUPPLIES OF ANY ENERGY
12 FORM WITH OTHER DISTRIBUTORS THEREOF; PROVIDED, HOWEVER,
13 EVERY EFFORT SHALL BE MADE BY THE COUNCIL TO INSURE THAT NO
14 ONE FUEL DISTRIBUTOR IS REQUIRED TO RELINQUISH HIS ENERGY
15 INVENTORY DISPROPORTIONATELY TO ONE OR MORE OTHER FUEL
16 DISTRIBUTORS IN THE SAME OR SIMILAR CIRCUMSTANCES.

17 (3) ESTABLISH PRIORITIES FOR THE DISTRIBUTION OF ANY
18 ENERGY FORM.

19 (4) REGULATE AND CONTROL THE DISTRIBUTION AND SALE OF
20 ANY ENERGY FORM BY:

21 (I) ESTABLISHING SUCH LIMITATIONS, PRIORITIES OR
22 RATIONING PROCEDURES AS SHALL BE NECESSARY TO INSURE A
23 FAIR AND EQUITABLE DISTRIBUTION OF AVAILABLE SUPPLIES.

24 (II) ESTABLISHING MINIMUM AND MAXIMUM QUANTITIES TO
25 BE SOLD TO ANY PURCHASER.

26 (III) FIXING THE DAYS AND HOURS OF ACCESS TO RETAIL
27 DEALERS.

28 (IV) COMPELLING SALES TO MEMBERS OF THE GENERAL
29 PUBLIC DURING TIMES WHEN A RETAIL DEALER IS OPEN FOR THE
30 SALE OF AN ENERGY FORM.

1 (V) ESTABLISHING METHODS FOR NOTIFYING THE PUBLIC BY
2 FLAGS, SYMBOLS OR OTHER APPROPRIATE MEANS WHETHER RETAIL
3 DEALERS ARE OPEN AND SELLING THE SUBJECT ENERGY FORM.

4 (5) DIRECT THE HEADS OF THOSE COMMONWEALTH AGENCIES THAT
5 WERE ORDERED TO DEVELOP CONTINGENCY PLANS PURSUANT TO SECTION
6 4124 (RELATING TO EMERGENCY ENERGY ALLOCATION PLAN) TO
7 IMPLEMENT THE PLANS.

8 (6) ORDER THE TEMPORARY CLOSING OF PUBLIC OR PRIVATE
9 FACILITIES BY CLASS INCLUDING BUT NOT LIMITED TO ANY
10 BUSINESS, SCHOOL OR SPORTS FACILITY.

11 (7) ADOPT AND PROMULGATE SUCH RULES AND REGULATIONS AS
12 ARE NECESSARY AND PROPER TO CARRY OUT THE PURPOSES OF THIS
13 SECTION.

14 (B) POWER OF GOVERNOR TO SUSPEND LAWS, ETC.--DURING THE
15 EXISTENCE OF A DISASTER EMERGENCY, THE GOVERNOR MAY ORDER THE
16 SUSPENSION OF ANY LAWS, RULES, REGULATIONS OR ORDERS OF ANY
17 AGENCY OF THE COMMONWEALTH OR ANY POLITICAL SUBDIVISION WHICH
18 DEAL WITH OR AFFECT ENERGY AND WHICH IMPEDE THE ABILITY OF THE
19 GOVERNOR TO ALLEVIATE OR TERMINATE A DISASTER EMERGENCY. UPON
20 DECLARING A DISASTER EMERGENCY, THE GOVERNOR MAY SUPERSEDE ANY
21 OTHER SUCH EMERGENCY POWERS.

22 (C) REVIEW OF ORDERS OF COUNCIL.--ANY AGGRIEVED PERSON, UPON
23 APPLICATION TO THE COUNCIL, SHALL BE GRANTED A REVIEW OF WHETHER
24 THE CONTINUANCE OF ANY ORDER ISSUED BY THE COUNCIL PURSUANT TO
25 THIS SECTION IS UNREASONABLE IN LIGHT OF THEN PREVAILING
26 CONDITIONS OF EMERGENCY.

27 (D) COMPELLING ASSISTANCE FROM COMMONWEALTH AGENCIES.--
28 DURING A DISASTER EMERGENCY THE COUNCIL MAY REQUIRE ANY OTHER
29 COMMONWEALTH AGENCY TO PROVIDE SUCH INFORMATION, ASSISTANCE,
30 RESOURCES AND PERSONNEL AS SHALL BE NECESSARY TO DISCHARGE THE

1 FUNCTIONS AND RESPONSIBILITIES OF THE COUNCIL UNDER THIS
2 CHAPTER, RULES AND REGULATIONS ADOPTED UNDER THIS CHAPTER OR
3 APPLICABLE FEDERAL LAWS AND REGULATIONS.

4 (E) POWERS OF GOVERNOR AND COUNCIL CUMULATIVE.--THE POWERS
5 GRANTED TO THE GOVERNOR AND THE COUNCIL UNDER THIS SECTION SHALL
6 BE IN ADDITION TO AND NOT IN LIMITATION OF ANY EMERGENCY POWERS
7 NOW OR HEREAFTER VESTED IN THE GOVERNOR, THE COUNCIL OR ANY
8 OTHER COMMONWEALTH AGENCY PURSUANT TO ANY OTHER LAWS, INCLUDING
9 BUT NOT LIMITED TO ANY POWER NOW VESTED IN THE PUBLIC UTILITY
10 COMMISSION TO REQUIRE UTILITY COMPANIES TO ALLOCATE AVAILABLE
11 SUPPLIES OF ENERGY.

12 SUBCHAPTER D

13 VIOLATIONS AND PENALTIES

14 SEC.

15 4131. ACTIONS FOR INJUNCTIVE RELIEF.

16 4132. CIVIL PENALTIES.

17 4133. CRIMINAL PENALTIES.

18 4134. RECOMMENDING LICENSE SUSPENSION OR REVOCATION.

19 § 4131. ACTIONS FOR INJUNCTIVE RELIEF.

20 UPON A VIOLATION OF THIS CHAPTER OR OF ANY RULES, REGULATIONS
21 OR ORDERS ISSUED UNDER THIS CHAPTER, THE COUNCIL MAY INSTITUTE A
22 CIVIL ACTION IN THE COMMONWEALTH COURT OR IN THE COURT OF COMMON
23 PLEAS OF THE JUDICIAL DISTRICT IN WHICH THE VIOLATION OCCURS FOR
24 INJUNCTIVE RELIEF TO RESTRAIN THE VIOLATION AND FOR SUCH OTHER
25 RELIEF AS THE COURT SHALL DEEM PROPER. NEITHER THE INSTITUTION
26 OF THIS ACTION NOR ANY OF THE PROCEEDINGS THEREIN SHALL RELIEVE
27 ANY PARTY TO THE PROCEEDINGS FROM OTHER FINES OR PENALTIES
28 PRESCRIBED FOR THE VIOLATION BY THIS CHAPTER OR BY ANY RULE,
29 REGULATION OR ORDER ISSUED UNDER THIS CHAPTER.

30 § 4132. CIVIL PENALTIES.

1 ANY PERSON WHO FAILS TO PROVIDE ENERGY INFORMATION WHEN SO
2 REQUIRED BY THE COUNCIL SHALL BE LIABLE FOR A CIVIL PENALTY OF
3 NOT MORE THAN \$3,000 FOR EACH OFFENSE. IF THE VIOLATION IS OF A
4 CONTINUING NATURE, EACH DAY DURING WHICH IT CONTINUES SHALL
5 CONSTITUTE AN ADDITIONAL AND SEPARATE OFFENSE.

6 § 4133. CRIMINAL PENALTIES.

7 (A) PURCHASERS.--ANY PERSON PURCHASING OR ATTEMPTING TO
8 PURCHASE ENERGY IN VIOLATION OF SECTION 4126 (RELATING TO POWERS
9 DURING DISASTER EMERGENCY) OR ANY RULES, REGULATIONS OR ORDERS
10 ISSUED THEREUNDER COMMITS A SUMMARY OFFENSE.

11 (B) RETAIL DEALERS.--ANY RETAIL DEALER WHO VIOLATES SECTION
12 4126 OR ANY RULES, REGULATIONS OR ORDERS ISSUED THEREUNDER
13 COMMITS A SUMMARY OFFENSE.

14 (C) SUPPLIERS.--ANY DISTRIBUTOR OR ANY OTHER SUPPLIER OF
15 ENERGY WHO VIOLATES ANY OF THE PROVISIONS OF SECTION 4126 OR OF
16 ANY RULES, REGULATIONS OR ORDERS ISSUED THEREUNDER COMMITS A
17 MISDEMEANOR OF THE FIRST DEGREE.

18 § 4134. RECOMMENDING LICENSE SUSPENSION OR REVOCATION.

19 IN ADDITION TO ANY OTHER PENALTIES PROVIDED UNDER THIS
20 CHAPTER OR OTHER STATUTE, THE COUNCIL MAY RECOMMEND TO THE
21 APPROPRIATE AGENCY THE SUSPENSION OR REVOCATION OF THE LICENSE
22 OF ANY RETAIL DEALER, GASOLINE JOBBER, WHOLESALE DEALER,
23 DISTRIBUTOR OR SUPPLIER OF FUEL WHO HAS VIOLATED THIS CHAPTER OR
24 ANY RULES, REGULATIONS OR ORDERS ISSUED UNDER THIS CHAPTER.

25 SECTION 2. GOVERNOR'S ENERGY COUNCIL ABOLISHED.

26 (A) GENERAL RULE.--THE GOVERNOR'S ENERGY COUNCIL IS HEREBY
27 ABOLISHED AND, EXCEPT AS OTHERWISE PROVIDED BY THIS ACT, ALL THE
28 FUNCTIONS, POWERS AND DUTIES OF THE EXISTING GOVERNOR'S ENERGY
29 COUNCIL ARE HEREBY CONTINUED IN THE PENNSYLVANIA ENERGY COUNCIL.

30 (B) TRANSFER OF FUNDS.--ALL APPROPRIATIONS, GRANTS AND OTHER

1 MONEYS AVAILABLE TO THE GOVERNOR'S ENERGY COUNCIL ARE HEREBY
2 TRANSFERRED TO THE PENNSYLVANIA ENERGY COUNCIL CREATED BY THIS
3 ACT AND SHALL REMAIN AVAILABLE FOR THE OBJECTS AND PURPOSES FOR
4 WHICH APPROPRIATED, SUBJECT TO ANY TERMS, RESTRICTIONS,
5 LIMITATIONS OR OTHER REQUIREMENTS IMPOSED BY FEDERAL OR STATE
6 LAW.

7 (C) TRANSFER OF EMPLOYEES.--THE EMPLOYEES OF THE GOVERNOR'S
8 ENERGY COUNCIL ARE HEREBY TRANSFERRED TO THE PENNSYLVANIA ENERGY
9 COUNCIL. NOTHING IN THIS ACT SHALL BE CONSTRUED TO DEPRIVE THE
10 EMPLOYEES OF ANY RIGHTS OR PROTECTIONS PROVIDED THEM BY THE
11 CIVIL SERVICE, PENSION OR RETIREMENT LAWS OF THIS COMMONWEALTH.

12 (D) TRANSFER OF PROPERTY.--ALL FILES, BOOKS, PAPERS,
13 RECORDS, EQUIPMENT AND OTHER PROPERTY OF THE GOVERNOR'S ENERGY
14 COUNCIL ARE HEREBY TRANSFERRED TO THE PENNSYLVANIA ENERGY
15 COUNCIL.

16 (E) EXISTING RULES, REGULATIONS AND ORDERS.--THE RULES,
17 REGULATIONS AND ORDERS OF THE GOVERNOR'S ENERGY COUNCIL SHALL
18 CONTINUE WITH FULL FORCE AND EFFECT AS THE RULES, REGULATIONS
19 AND ORDERS OF THE PENNSYLVANIA ENERGY COUNCIL UNTIL FURTHER
20 AMENDED OR REPEALED.

21 (F) CONSTRUCTION OF REFERENCES.--WHENEVER IN ANY LAW, RULE,
22 REGULATION, ORDER, CONTRACT, DOCUMENT, JUDICIAL OR
23 ADMINISTRATIVE PROCEEDINGS, OR OTHERWISE, REFERENCE IS MADE TO
24 THE GOVERNOR'S ENERGY COUNCIL, THE REFERENCE SHALL BE CONSIDERED
25 TO MEAN AND REFER TO THE PENNSYLVANIA ENERGY COUNCIL.

26 SECTION 3. EXPIRATION OF PENNSYLVANIA ENERGY COUNCIL.

27 (A) GENERAL RULE.--EXCEPT AS PROVIDED IN SUBSECTION (B), THE
28 PROVISIONS OF 66 PA.C.S. CHAP. 41 (RELATING TO ENERGY
29 CONSERVATION AND CONTROL) AND THE PENNSYLVANIA ENERGY COUNCIL
30 SHALL EXPIRE ON JUNE 30, ~~1978~~ 1979.

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1 (B) EXTENSION BY GENERAL ASSEMBLY.--THE GENERAL ASSEMBLY, BY
2 CONCURRENT RESOLUTION ADOPTED PRIOR TO THE THEN CURRENT
3 EXPIRATION DATE, MAY EXTEND THE DATE OF EXPIRATION FOR SUCH
4 ADDITIONAL PERIOD AND FOR AS MANY TIMES AS THE GENERAL ASSEMBLY
5 DETERMINES.

6 SECTION 4. EFFECTIVE DATE.

7 THIS ACT SHALL TAKE EFFECT IN 60 DAYS.