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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1433 Session of  
1984

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INTRODUCED BY JUBELIRER, ZEMPRELLI, SHAFFER, SINGEL, STAPLETON,  
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LLOYD, LOEPER, LYNCH, MELLOW, ANDREZESKI, BODACK, CORMAN,  
FISHER, HANKINS, HELFRICK, HESS AND HAGER, JUNE 15, 1984

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REFERRED TO APPROPRIATIONS, JUNE 15, 1984

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AN ACT

1 Establishing a business infrastructure development program for  
2 making grants and loans for infrastructure necessary to  
3 complement industrial or commercial investment by private  
4 companies; prescribing requirements of and conditions for  
5 grants and loans; and making an appropriation.

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Business  
10 Infrastructure Development Act.

11 Section 2. Definitions.

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

15 "Department." The Department of Commerce.

16 "Infrastructure improvements." The construction,  
17 rehabilitation or repair of drainage systems; energy facilities

1 (power generation and distribution); fire safety facilities  
2 (excluding vehicles); sewer systems (pipe, treatment);  
3 transportation directly affecting the site of the proposed  
4 private investment, including roads, sidewalks, bridges, rail,  
5 port, river, airport or pipeline (excluding vehicles); waste  
6 disposal; and water supply (storage, treatment and  
7 distribution).

8 "Local sponsor." Any municipality, any industrial and  
9 commercial authority organized pursuant to, or industrial  
10 development company as certified by the department pursuant to  
11 the act of August 23, 1967 (P.L.251, No.102), known as the  
12 Industrial and Commercial Development Authority Law; any council  
13 of government organization or any multimunicipal agency  
14 organization created pursuant to the act of July 12, 1972  
15 (P.L.762, No.180), referred to as the Intergovernmental  
16 Cooperation Law; any municipal authority organization pursuant  
17 to the act of May 2, 1945 (P.L.382, No.164), known as the  
18 Municipality Authorities Act of 1945; any redevelopment  
19 authority organized pursuant to the act of May 24, 1945  
20 (P.L.991, No.385), known as the Urban Redevelopment Law; and any  
21 local development district of the Appalachian Regional  
22 Commission.

23 "Municipality." Any county, city, borough, incorporated  
24 town, township or home rule municipality.

25 "Private company." Any agricultural, industrial,  
26 manufacturing or research and development enterprise or  
27 enterprises, as defined in section 3 of the act of May 17, 1956  
28 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial  
29 Development Authority Act.

30 "Private match." Any new investment by the private company

1 in land, buildings and depreciable fixed assets and  
2 infrastructure improvements at the project site of the  
3 infrastructure improvements funded under this act.

4 "Publicly owned property." Property which is accessible to  
5 the general public and is not under the control of a private  
6 firm.

7 "Secretary." The Secretary of Commerce.

8 "Small community." A municipality eligible to participate in  
9 the Small Communities Block Grant Program.

10 Section 3. Establishment of program.

11 There is hereby established, under the direction of the  
12 department, a program to be known as the Business Infrastructure  
13 Development Program for the purpose of making grants or loans to  
14 local sponsors in order to install specific infrastructure  
15 improvements necessary to complement industrial investment by  
16 private companies which increase Pennsylvania's share of  
17 domestic and international commerce create net new jobs.

18 Section 4. Grant and loan procedure.

19 (a) Private company commitments.--An application for a grant  
20 or loan shall be initiated by a private company which shall  
21 submit a letter of intent or signed contractual agreement to  
22 locate, expand or build a facility to a local sponsor whose  
23 jurisdiction includes, at least in part, the site of the  
24 facility. The letter of intent shall include:

25 (1) A commitment that the proposed facility will create  
26 a minimum of ten net new full-time equivalent jobs, will  
27 create at least a 4% increase in full-time equivalent jobs in  
28 the case of expansion of an enterprise already located at the  
29 site, or at least a 10% increase in full-time equivalent jobs  
30 pursuant to section 7(h) and will create at least one net new

1 full-time equivalent job for every \$15,000 either loaned or  
2 granted for the project.

3 (2) A statement of intention to operate the facility for  
4 a minimum of five years.

5 (3) A statement that the specific infrastructure  
6 improvements are necessary for the efficient and cost-  
7 effective operation of the proposed business or industry,  
8 together with supporting financial and engineering  
9 documentation.

10 (4) A notarized statement of willingness to grant the  
11 local sponsor a lien on the facility for which the  
12 infrastructure is being provided, up to the amount of the  
13 cost of the loan, including principal and interest, required  
14 to provide the infrastructure, which lien may be foreclosed  
15 in the event that the private company fails to operate in the  
16 facility for at least five years.

17 (b) Application to the department.--Upon receipt of the  
18 request for assistance from a private company, the local sponsor  
19 may apply to the department for a loan or grant. The application  
20 from the local sponsor shall include, but not be limited to:

21 (1) A statement of the purpose of the proposed loan or  
22 grant, including a list of eligible items and the cost of  
23 each.

24 (2) A statement showing the sources of funding for the  
25 entire project, including the private company's investment in  
26 the project and any public and other private sources of  
27 funding.

28 (3) A contractual agreement or signed letter of intent  
29 from a private firm, as specified in this section.

30 (4) Evidence that there will be a private match in the

1 following amounts:

2 (i) At least \$2 for every \$1 of State assistance, if  
3 the assistance requested is \$500,000 or less.

4 (ii) At least \$3 for every \$1 of State assistance,  
5 if the assistance requested is greater than \$500,000 but  
6 not greater than \$1,000,000.

7 (iii) At least \$4 for every \$1 of State assistance  
8 if the assistance requested is greater than \$1,000,000  
9 but not greater than \$1,500,000.

10 (5) Demonstration that the private firm is financially  
11 sound and is likely to fulfill the commitments made in its  
12 letter of intent.

13 (6) A proposed timetable for the provision of the  
14 infrastructure improvements.

15 (7) Evidence that the project will be expeditiously  
16 carried out and completed as planned.

17 (8) A demonstration that insufficient local capital  
18 improvement funds at reasonable rates and terms are available  
19 within the necessary time to provide the needed  
20 infrastructure improvement on public property. This includes  
21 local funds available through issuance of bonds or other  
22 means, State funds available through existing programs and  
23 available Federal program funds such as community development  
24 block grant funds, urban development action grant funds and  
25 economic development administration funds.

26 (9) A demonstration that insufficient private funds are  
27 available at reasonable rates and terms within the necessary  
28 time to fund infrastructure improvements on property owned by  
29 the private company.

30 (10) Evidence of consistency with local and areawide

1 economic development plans where such exist.

2 (c) Grant and loan evaluation.--The department shall  
3 consider grant and loan applications based on the following  
4 criteria:

5 (1) The number of net new full-time equivalent jobs that  
6 will be provided and the amount of additional State and local  
7 tax revenue that will be directly generated by the private  
8 company's new or expanded industrial or commercial  
9 investment.

10 (2) The degree of economic distress in the jurisdiction  
11 of the local sponsor and, when appropriate, the surrounding  
12 area, as measured by rates of unemployment, income levels and  
13 other criteria as the department shall establish by rules or  
14 guidelines.

15 (3) The ability to repay the interest and principal, in  
16 the case of a loan.

17 (4) The increase in the manufacturing base of the  
18 Commonwealth.

19 Section 5. Loan repayment.

20 The department shall establish such guidelines, rules and  
21 regulations for the repayment of funds loaned pursuant to this  
22 act as may be necessary. These provisions shall include, but not  
23 be limited to, the following:

24 (1) Funds may be lent for a maximum of ten years or the  
25 estimated useful life of the property, as established by the  
26 United States Department of Treasury, whichever is greater.

27 (2) The rate of interest charged by the department for  
28 infrastructure not on publicly owned property shall be no  
29 less than the average interest rate on the bonds sold  
30 pursuant to the act of February 24, 1984 (P.L.99, No.19)

entitled "An act authorizing the indebtedness, with the approval of the electors, of \$190,000,000 to promote economic redevelopment throughout Pennsylvania through job producing programs; grants and loans for industrial and small business development; acquisition of equipment for vocational programs in secondary schools, community colleges and engineering degree-granting schools; agricultural development; and the acquisition, rehabilitation or development of facilities for community services and public recreation purposes," and approved by referendum on April 10, 1984.

(3) For all infrastructure improvements funded through this act which occur on publicly owned property, repayment of funds loaned will involve only the principal amount loaned and no interest will be charged against the funds made available.

#### Section 6. Grants.

Grants for infrastructure on publicly owned property necessary to complete eligible projects, consistent with the criteria set forth in this act, shall be permitted only in enterprise development areas designated as such by the Secretary of the Department of Community Affairs, or in those municipalities which are experiencing three or more of the following problems:

(1) Twenty percent or more of the population with incomes below the poverty level as reported in the latest decennial census.

(2) Fifteen percent or more of the labor force is unemployed as reported in the census of 1980 or as reported in a survey done by the municipality.

(3) Five percent or more loss of population between 1970

1 and 1980 as reported by the Census Bureau.

2 (4) Significant business vacancy rate within the area,  
3 either in gross footage or acreage or in the number of  
4 business or industrial buildings.

5 (5) Significant reduction in employment since 1977.

6 Section 7. Special provisions.

7 (a) Limit on grants and loans to particular  
8 municipalities.--No more than 10% of funds appropriated pursuant  
9 to this act shall be loaned or granted to local sponsors in a  
10 particular municipality.

11 (b) Limit on grants for infrastructure on publicly owned  
12 property.--In no case shall more than 10% of the funds  
13 appropriated in any State fiscal year pursuant to this act be  
14 utilized as specified in section 6, nor shall any municipality  
15 receive more than one grant in any single fiscal year.

16 (c) Minimum allocation to small communities.--A minimum of  
17 25% of the grants and loans issued pursuant to this act shall be  
18 allocated to small communities.

19 (d) Evidence of matching funds.--No loan or grant shall be  
20 made without substantiation of the provisions of section 5.

21 (e) Liens.--Funds loaned will be secured by lien positions  
22 on collateral at the highest level of priority the department  
23 determines feasible to accommodate the project, consistent with  
24 section 4(a)(4).

25 (f) Penalty.--Private companies which fail to create the  
26 number of jobs specified in an approved application shall be  
27 liable for a penalty equal to an increase in the interest  
28 charged to 2% greater than the current prime interest rate for  
29 the remainder of the loan, unless the penalty is waived by the  
30 secretary because the failure is due to circumstances outside



1 the control of the private company. The penalty shall be payable  
2 in installments which the secretary deems appropriate. Immediate  
3 notice of penalties and waivers of penalties, including the  
4 penalties in section 4(a)(4), with the reasons thereof, shall be  
5 submitted by the secretary to the Chief Clerk of the House of  
6 Representatives and to the Secretary of the Senate, along with  
7 the secretary's decision on the imposition of penalties and the  
8 reasons for this decision.

9 (g) Withholding of liquid fuel tax allocation.--

10 Municipalities receiving interest free loans which fail to meet  
11 their repayment obligations shall have all or part of their  
12 liquid fuel tax allocation withheld or other penalties, as the  
13 department may prescribe. The secretary shall immediately give  
14 the name of the municipality and the reasons for, and amount of,  
15 the penalty to both the Chief Clerk of the House of  
16 Representatives and the Secretary of the Senate.

17 (h) Relocation; job increase.--This act is expressly not  
18 intended to encourage the relocation of a company from one  
19 jurisdiction within the Commonwealth to another. Any request by  
20 a local sponsor for assistance to be provided a firm which  
21 currently operates a similar business in the Commonwealth must  
22 be accompanied by a demonstration that the total net increase in  
23 full-time equivalent jobs, using the current number of jobs in  
24 all similar businesses operated by the private company in the  
25 Commonwealth as a base, shall be at least 10%. This requirement  
26 shall not apply to private companies relocating from small  
27 business incubators.

28 Section 8. Additional powers and duties of the department.

29 (a) Rules and forms.--The department may prescribe such  
30 application forms and promulgate such guidelines, rules and

1 regulations as may be necessary to carry out the provisions of  
2 this act with respect to loan and grant conditions and criteria  
3 for evaluation of the economic benefit of proposed loans and  
4 grants and for determining and evaluating compliance with all  
5 the criteria established in this act. Guidelines and changes to  
6 guidelines shall be provided to the Chief Clerk of the House of  
7 Representatives and the Secretary of the Senate when they become  
8 effective.

9 (b) Reporting.--On or before the March 1 following the  
10 adoption of this act and in each succeeding year in which loans  
11 are outstanding, the department shall provide a report to the  
12 Chief Clerk of the House of Representatives and the Secretary of  
13 the Senate for the preceding calendar year. The report shall  
14 contain, at a minimum, the following information:

15 (1) A list of the approved projects including local  
16 sponsor, name of private company, cost of project, amount of  
17 private investment, projected number of new jobs, location of  
18 project, date of submission of the application by the local  
19 sponsor, type of project and estimated completion date of  
20 project.

21 (2) A list of applications not approved.

22 (3) A list of pending applications.

23 (4) A list of projects where job projections are not  
24 being met or the project is not being completed and the  
25 penalty being applied or the reason a penalty is not being  
26 applied.

27 (5) Estimates of State and local tax revenue increases  
28 caused directly by project.

29 (6) A list of projects approved or completed in years  
30 prior to the preceding year.

1           (7) In addition to the data reporting required above,  
2       the department shall accumulate from the sponsors of approved  
3       projects the following data on an annual and cumulative  
4       basis:

5           (i) The number of jobs actually created by these  
6       projects.

7           (ii) Estimated increased tax revenue caused by the  
8       projects.

9       (8) Guidelines issued for this program.

10       (9) An overall statement of the progress of the program  
11       during the preceding year, along with recommendations for  
12       improvements.

13 Section 9. Appropriation.

14       The sum of \$16,000,000, or as much thereof as may be  
15       necessary, is hereby appropriated from the Pennsylvania Economic  
16       Revitalization Fund to the department for the fiscal year July  
17       1, 1984 to June 30, 1985, for grants and loans as specified in  
18       this act.

19 Section 10. Termination.

20       No funds may be expended pursuant to this act after June 30,  
21       1987.

22 Section 11. Effective date.

23       This act shall take effect immediately.