

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2176 Session of
1995

INTRODUCED BY DALEY, HERMAN, PETRARCA, JOSEPHS, CURRY, SHANER,
LAUGHLIN, JAROLIN, CORRIGAN, STISH, COLAIZZO, LUCYK AND
PISTELLA, OCTOBER 31, 1995

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
OCTOBER 31, 1995

AN ACT

1 Amending the act of April 9, 1929 (P.L.177, No.175), entitled
2 "An act providing for and reorganizing the conduct of the
3 executive and administrative work of the Commonwealth by the
4 Executive Department thereof and the administrative
5 departments, boards, commissions, and officers thereof,
6 including the boards of trustees of State Normal Schools, or
7 Teachers Colleges; abolishing, creating, reorganizing or
8 authorizing the reorganization of certain administrative
9 departments, boards, and commissions; defining the powers and
10 duties of the Governor and other executive and administrative
11 officers, and of the several administrative departments,
12 boards, commissions, and officers; fixing the salaries of the
13 Governor, Lieutenant Governor, and certain other executive
14 and administrative officers; providing for the appointment of
15 certain administrative officers, and of all deputies and
16 other assistants and employes in certain departments, boards,
17 and commissions; and prescribing the manner in which the
18 number and compensation of the deputies and all other
19 assistants and employes of certain departments, boards and
20 commissions shall be determined," establishing the Department
21 of Energy and providing for its powers and duties; creating
22 the Energy Research and Development Advisory Board and
23 prescribing its functions; further providing for the
24 composition of the Environmental Quality Board and for
25 special powers relating to State vehicles; providing for
26 energy or fuel supply emergencies and for coordination of
27 monitoring of supplies of energy resources; further providing
28 for the composition of the Energy Development Authority and
29 for indebtedness of the Energy Development Authority; and
30 transferring personnel, appropriations and equipment.

31 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 201 of the act of April 9, 1929 (P.L.177,
3 No.175), known as The Administrative Code of 1929, amended
4 December 30, 1984 (P.L.1299, No.245) and repealed in part May
5 26, 1988 (P.L.414, No.72), is amended to read:

6 Section 201. Executive Officers, Administrative Departments
7 and Independent Administrative Boards and Commissions.--The
8 executive and administrative work of this Commonwealth shall be
9 performed by the Executive Department, consisting of the
10 Governor, Lieutenant Governor, Secretary of the Commonwealth,
11 Attorney General, Auditor General, State Treasurer, and
12 Secretary of Education; by the Executive Board, and the
13 Pennsylvania State Police; by the following administrative
14 departments: Department of State, Office of Attorney General,
15 Department of Corrections, Department of the Auditor General,
16 Treasury Department, Department of Education, Department of
17 Military Affairs, Insurance Department, Department of Banking,
18 Department of Agriculture, Department of Transportation,
19 Department of Health, Department of Labor and Industry,
20 Department of Aging, Department of Public Welfare, Department of
21 General Services, Department of Revenue, Department of Commerce,
22 Department of Community Affairs [and], Department of
23 Environmental Resources and Department of Energy; and by the
24 following independent administrative boards and commissions:
25 Pennsylvania Game Commission, Pennsylvania Fish and Boat
26 Commission, State Civil Service Commission, Pennsylvania Public
27 Utility Commission and the Pennsylvania Securities Commission.

28 All of the provisions of this act, which apply generally to
29 administrative departments, or generally except to the
30 Department of the Auditor General, the Treasury Department and

1 the Office of Attorney General, shall apply to the Executive
2 Board and to the Pennsylvania State Police.

3 Section 2. Section 203 of the act, amended December 3, 1970
4 (P.L.834, No.275), July 22, 1975 (P.L.75, No.45), June 20, 1978
5 (P.L.477, No.70), December 6, 1982 (P.L.774, No.223) and June
6 30, 1988 (P.L.475, No.80) and repealed in part April 29, 1988
7 (P.L.381, No.60) and July 21, 1993 (P.L.439, No.64), is amended
8 to read:

9 Section 203. Advisory Boards and Commissions.--The following
10 advisory boards and commissions are placed in and made parts of
11 the respective administrative departments, as follows:

12 In the Department of Military Affairs,

13 State Military Reservation Commission,

14 In the Department of Environmental Resources,

15 Citizens Advisory Council;

16 In the Department of Health,

17 Advisory Health Board;

18 In the Department of Labor and Industry,

19 Advisory Council on Affairs of the Handicapped,

20 Advisory Board on Problems of Older Workers,

21 Policy, Planning and Evaluation Advisory Committee;

22 In the Department of Public Welfare,

23 State Board of Public Welfare,

24 Advisory Committee for the Blind,

25 Advisory Committee for General and Special Hospitals,

26 Advisory Committee for Children and Youth,

27 Advisory Committee for Public Assistance,

28 Advisory Committee for Mental Health and Mental

29 Retardation[.];

30 In the Department of Energy,

1 Energy Research and Development Advisory Board.

2 Section 3. Sections 206 and 207.1(d)(1) of the act, amended
3 December 30, 1984 (P.L.1299, No.245), are amended to read:

4 Section 206. Department Heads.--Each administrative
5 department shall have as its head an officer who shall, either
6 personally, by deputy, or by the duly authorized agent or
7 employe of the department, and subject at all times to the
8 provisions of this act, exercise the powers and perform the
9 duties by law vested in and imposed upon the department.

10 The following officers shall be the heads of the
11 administrative departments following their respective titles:

12 Secretary of the Commonwealth, of the Department of State;
13 Auditor General, of the Department of the Auditor General;
14 State Treasurer, of the Treasury Department;
15 Attorney General, of the Office of Attorney General;
16 Secretary of Education, of the Department of Education;
17 Adjutant General, of the Department of Military Affairs;
18 Insurance Commissioner, of the Insurance Department;
19 Secretary of Banking, of the Department of Banking;
20 Secretary of Agriculture, of the Department of Agriculture;
21 Secretary of Transportation, of the Department of
22 Transportation;
23 Secretary of Health, of the Department of Health;
24 Secretary of Labor and Industry, of the Department of Labor
25 and Industry;
26 Secretary of Aging, of the Department of Aging;
27 Secretary of Public Welfare, of the Department of Public
28 Welfare;
29 Secretary of Revenue, of the Department of Revenue;
30 Secretary of Commerce, of the Department of Commerce;

Secretary of Community Affairs, of the Department of
Community Affairs;

Secretary of Environmental Resources, of the Department of
Environmental Resources;

Secretary of Energy, of the Department of Energy;

Secretary of General Services, of the Department of General
Services;

Secretary of Corrections, of the Department of Corrections.

Section 207.1. Gubernatorial Appointments.--* * *

(d) The Governor shall nominate in accordance with the
provisions of the Constitution of the Commonwealth of
Pennsylvania and, by and with the advice and consent of a
majority of the members elected to the Senate appoint persons to
fill the following positions:

(1) The Secretary of Education, the Secretary of the
Commonwealth, the Adjutant General, the Insurance Commissioner,
the Secretary of Banking, the Secretary of Agriculture, the
Secretary of Transportation, the Secretary of Health, the
Commissioner of the State Police, the Secretary of Corrections,
the Secretary of Labor and Industry, the Secretary of Aging, the
Secretary of Public Welfare, the Secretary of General Services,
the Secretary of Revenue, the Secretary of Commerce, the
Secretary of Community Affairs [and], the Secretary of
Environmental Resources and the Secretary of Energy.

* * *

Section 4. Section 448 of the act is amended by adding a
clause to read:

Section 448. Advisory Boards and Commissions.--The advisory
boards and commissions, within the several administrative
departments, shall be constituted as follows:

1 * * *

2 (q) The Energy Research and Development Advisory Board shall
3 consist of the Secretary of Energy, the Secretary of Commerce,
4 the Secretary of Environmental Resources, the Chairman of the
5 Pennsylvania Public Utility Commission, the Executive Director
6 of the Energy Development Authority and twelve (12) members
7 appointed by the Governor, one (1) of whom shall be designated
8 as chairman. The twelve (12) appointed members shall be
9 knowledgeable in fields related to energy development,
10 production and use and shall be appointed by the Governor as
11 follows: two (2) members shall be from an electric power utility
12 which operates at least one coal-fired generating station, one
13 (1) member shall be the owner or an operator of a gas or oil
14 producing operation, one (1) member shall be the owner or an
15 operator of an anthracite coal mining operation, one (1) member
16 shall be the owner or an operator of a bituminous coal mining
17 operation, one (1) member shall be from a small power producer
18 or shall be knowledgeable in renewable energy resources, two (2)
19 members shall be from the energy research staff of an accredited
20 Pennsylvania university or college, one (1) member shall be from
21 a consumer organization interested in energy-related matters,
22 one (1) member shall be a member of organized labor employed by
23 one or more energy-related industries, one (1) member shall be
24 from an organization which represents environmental interests
25 and (1) member shall be a local government official. The
26 membership of the Energy Research Development Advisory Board
27 shall also include four (4) members of the General Assembly or
28 their designees, one (1) appointed by the President pro tempore
29 of the Senate, one (1) by the Minority Leader of the Senate, one
30 (1) by the Speaker of the House of Representatives and one (1)

1 by the Minority Leader of the House of Representatives.

2 The term of office of each member appointed by the Governor
3 shall be four (4) years, measured from the third Tuesday of
4 January of the year in which the member takes office, or until
5 his successor has been appointed except, that in the initial
6 appointments of the members of the board, the Governor shall
7 appoint six (6) members for terms of two (2) years each and six
8 (6) members for terms of three (3) years each.

9 Any member appointed to fill a vacancy created otherwise than
10 by expiration of a term shall be appointed for the unexpired
11 term of the member whom he is to succeed. Members of the board
12 shall not receive any compensation for their service, but shall
13 be reimbursed for actual and necessary expenses incurred in the
14 performance of their duties and shall receive a per diem
15 allowance of ninety dollars (\$90).

16 A majority of the members shall constitute a quorum. Meetings
17 of the board shall be held at least quarterly or at the call of
18 the chairman, or at the request of at least nine (9) members of
19 the board.

20 The Department of Energy shall provide technical assistance
21 and support services to the board.

22 Section 5. Section 471 of the act, amended November 1, 1979
23 (P.L.251, No.83), is amended to read:

24 Section 471. Environmental Quality Board.--The Environmental
25 Quality Board shall consist of the Secretary of Environmental
26 Resources, who shall be chairman thereof, the Secretary of
27 Health, the Secretary of Commerce, the Secretary of
28 Transportation, the Secretary of Agriculture, the Secretary of
29 Labor and Industry, the Secretary of Community Affairs, the
30 Secretary of Energy, the Executive Director of the Pennsylvania

1 Fish and Boat Commission, the Executive Director of the Game
2 Commission, the Chairman of the Public Utilities Commission,
3 [the Executive Director of the State Planning Board,] the
4 Executive Director of the Pennsylvania Historical and Museum
5 Commission, five members of the Citizens Advisory Council, and
6 four members of the General Assembly. The Citizens Advisory
7 Council members shall be designated by, and serve at the
8 pleasure of, the Citizens Advisory Council. One of the General
9 Assembly members shall be designated by, and serve at the
10 pleasure of, the President Pro Tempore of the Senate, one by the
11 Minority Leader of the Senate, one by the Speaker of the House
12 of Representatives and one by the Minority Leader of the House
13 of Representatives. In addition to the heads of the various
14 departments as elsewhere in this act provided, the other members
15 of the board may have named alternates to serve in their stead,
16 the alternates for the members of the board from the Citizens
17 Advisory Council to be selected by that council from members of
18 the council and each other alternate to be selected by that
19 particular member of the board in whose stead he is to serve. No
20 person will serve as alternate for more than one board member.

21 Eight members of the board shall constitute a quorum.

22 Section 6. The act is amended by adding an article to read:

23 ARTICLE XIX-B

24 POWERS AND DUTIES OF THE DEPARTMENT OF ENERGY,

25 ITS OFFICERS AND ITS ADVISORY BOARD

26 Section 1901-B. Department of Energy Established.--The
27 Department of Energy, which is hereby established as an
28 administrative department, shall have the powers and duties
29 granted to and imposed upon it by this article and by any other
30 statutory provisions. In addition, the Department of Energy and

the Secretary of Energy shall have all the powers and duties granted to and imposed upon the former Pennsylvania Energy Office prior to the effective date of this article.

Section 1902-B. Powers and Duties.--The Department of Energy shall have the power and its duty shall be:

(1) To promote the development of this Commonwealth's indigenous energy resources, consistent with economic feasibility, environmental protection and public health and safety by providing information, technical assistance and financial assistance.

(2) To promote the efficient use and conservation of energy in this Commonwealth through the conduct of a Statewide educational program and by providing information, technical assistance and financial assistance.

(3) To serve as the primary agency in this Commonwealth for the collection, maintenance and analysis of information on all forms of energy, conservation of energy and related subjects.

(4) To maintain a liaison with energy producers, suppliers, distributors and consumers and other Federal and State agencies concerning energy-related matters.

(5) In cooperation with the Energy Research and Development Advisory Board and the Energy Development Authority, to promote research and development efforts which will contribute to the integrity and adequacy of the Commonwealth's energy resources, with priority given to research and development involving utilization of Pennsylvania's coal resources and pollution control methods which will facilitate utilization of Pennsylvania coal.

(6) To encourage the development of new markets for the Commonwealth's indigenous energy resources.

1 (7) To monitor energy prices and evaluate rate and price
2 policies.

3 (8) To establish an energy information forecasting system.

4 (9) To determine the effect of energy and fuel shortages on
5 consumers.

6 (10) To coordinate the monitoring of energy or fuel supplies
7 to determine whether there exists or is likely to exist an
8 emergency shortage pursuant to section 2802-C(a) of this act and
9 to conduct emergency allocation measures during a period of
10 declared energy or fuel supply emergencies, pursuant to section
11 2802-C(b) of this act in accordance with an Emergency Allocation
12 Plan. The Emergency Allocation Plan shall be developed and
13 implemented by the department in conjunction with the
14 Pennsylvania Public Utility Commission and the Pennsylvania
15 Emergency Management Agency and shall be part of the
16 Pennsylvania Energy Policy and Plan.

17 (11) To review, study and monitor the efficiency of energy
18 utilization in State Government operations and suggest remedial
19 measures. The department shall direct all Commonwealth agencies
20 to develop, subject to the department's approval, contingency
21 plans for dealing with energy or fuel supply emergencies.
22 Portions of emergency allocation or contingency plans which
23 pertain to energy industries regulated by the Pennsylvania
24 Public Utility Commission shall be made available to the
25 department upon request.

26 (12) To assist in the review of plans, policies, rules and
27 regulations of other Commonwealth agencies regarding energy
28 development, production, conversion, distribution, transmission,
29 use or conservation.

30 (13) To intervene in the proceedings of the Pennsylvania

Public Utility Commission and regulatory proceedings of other
Federal or State agencies if the proceedings relate to energy
development, production, conversion, distribution, transmission,
use or conservation.

(14) To apply for, accept and expend grants-in-aid and
assistance for energy programs from public and private sources
and to serve as the manager and coordinator of Federal energy
grants, petroleum overcharge funds and private energy funds.

(15) To update and publish, at least once every five years,
a Pennsylvania Energy Policy and Plan developed by the Energy
Research and Development Advisory Board. The Pennsylvania Energy
Policy and Plan shall include information regarding the
development, production, distribution, consumption and
conservation of energy in this Commonwealth. The Emergency
Allocation Plan shall be included in the Pennsylvania Energy
Policy and Plan. The Pennsylvania Energy Policy and Plan and any
amendments thereto shall be submitted to the Governor and the
General Assembly.

(16) To provide necessary staff and assistance to the Energy
Research and Development Advisory Board and the Energy
Development Authority.

(17) To assist in the implementation of the act of December
15, 1980 (P.L.1203, No.222), known as the "Building Energy
Conservation Act," and to establish a Building Energy
Conservation Committee, pursuant to section 304 of the "Building
Energy Conservation Act."

(18) To enter into interstate compacts or agreements to
carry out energy research and planning with the Federal
Government or other states.

(19) To advise the Governor and the General Assembly

regarding Federal, State and international energy policies,
practices, programs and legislation and to submit proposed
legislation to the General Assembly for its consideration.

(20) To issue subpoenas and conduct hearings and
investigations.

(21) To acquire, purchase, grant and contract for eminent
domain title to real property to demonstrate facilities for
improved energy efficiency.

(22) To construct and operate facilities which improve
energy efficiency.

(23) To contract with any other public agency or
corporation.

(24) To keep complete and accurate minutes of all hearings
held before the department or any division of the department.

(25) To promulgate regulations necessary to administer this
article and to administer any applicable Federal regulations.

(26) To cooperate with all other Federal and State agencies
in carrying out its responsibilities.

Section 1903-B. Organization.--The Department of Energy
shall be organized into an Executive Office and three divisions.
The Secretary of Energy shall appoint as the head of each of the
following divisions a person knowledgeable and experienced in
the areas for which that division is responsible:

(1) Office of Administration.

(2) Office of Energy Policy and Programs.

(3) Office of Energy Planning and Evaluation.

Section 1904-B. Divisions.--(a) The Secretary of Energy
shall be responsible for the general administration and
coordination of the Department of Energy and its divisions. The
Secretary shall appoint a Chief Counsel who shall provide legal

1 services to the department.

2 (b) The Office of Administration shall be headed by a Deputy
3 Secretary for Administration who shall be appointed by the
4 Secretary of Energy. The Office of Administration shall have
5 responsibility for personnel and fiscal management, information
6 systems and office systems and services and shall have such
7 other responsibilities as may be assigned by the Secretary of
8 Energy.

9 (c) The Office of Energy Policy and Programs shall be headed
10 by a Deputy Secretary for Energy Policy and Programs who shall
11 be appointed by the Secretary of Energy. The Office of Energy
12 Policy and Programs shall have responsibility for administration
13 of grants, nuclear energy, fossil fuels, renewable energy
14 resources, utility issues and energy conservation programs and
15 shall have such other responsibilities as may be assigned by the
16 Secretary of Energy.

17 (d) The Office of Energy Planning and Evaluation shall be
18 headed by a Deputy Secretary for Energy Planning and Evaluation
19 who shall be appointed by the Secretary of Energy. The Office of
20 Energy Planning and Evaluation shall have responsibility for
21 regulatory affairs, emergency preparedness, market evaluation
22 and promotion, intergovernmental relations, community relations,
23 public information and shall have such other responsibilities as
24 may be assigned by the Secretary of Energy.

25 Section 1905-B. Salary of the Secretary of Energy.--The
26 Secretary of Energy shall receive an annual salary, payable in
27 equal semi-monthly installments of seventy-two thousand dollars
28 (\$72,000).

29 Section 1906-B. Energy Research and Development Advisory
30 Board.--(a) The Energy Research and Development Advisory Board

1 shall have the responsibility for developing a Pennsylvania
2 Energy Policy and Plan for this Commonwealth.

3 (b) The board shall assist and provide advice to the
4 Secretary of Energy and the Energy Development Authority. The
5 Secretary of Energy and the Energy Development Authority shall
6 work with and receive advice from the Energy Research and
7 Development Advisory Board in the development of energy programs
8 and projects in this Commonwealth.

9 (c) The functions of the Energy Research and Development
10 Advisory Board shall include, but not be limited to, the
11 following:

12 (1) Providing liaison among energy producers, labor
13 organizations, academia and agencies of the Commonwealth and the
14 United States on matters relating to energy and encouraging the
15 exchange of information regarding energy research and
16 development between the Commonwealth and other states and
17 nations.

18 (2) Providing coordination and oversight of all energy
19 research programs conducted at colleges and universities located
20 within this Commonwealth and, where possible, providing
21 coordination and oversight of all energy research programs
22 conducted in the private sector.

23 (3) Recommending energy research and development projects,
24 with priority being given to demonstrations of technology which
25 enhance the production and use of Pennsylvania coals and the
26 more efficient combustion of all fossil fuels. Before the board
27 makes any recommendation, it shall first consult with agencies
28 of the Federal Government that have jurisdiction over matters
29 involving energy, colleges and universities within this
30 Commonwealth, and other state governments in order to avoid

1 duplication of effort and expense.

2 (4) Assisting the Energy Development Authority in the
3 evaluation of energy research and development projects which
4 apply to the Energy Development Authority for financial or
5 technical assistance.

6 (5) Assisting the Secretary of Energy in developing
7 environmentally sound, cost-effective energy programs and
8 policies and procedures to implement such programs.

9 Section 7. Sections 2407.1, 2801-C and 2802-C of the act,
10 added December 14, 1982 (P.L.1213, No.280), are amended to read:

11 Section 2407.1. Special Power Relating to State Vehicles.--

12 (a) The Department of General Services, in cooperation with the
13 Department of Energy, shall, on an ongoing basis, monitor the
14 research and development efforts to produce synthetic motor
15 vehicle fuel derived in whole or in part from coal and shall
16 determine the feasibility of converting State-owned vehicles to
17 operate on such synthetic fuel.

18 (b) In making [its] the determination of the feasibility of
19 using a synthetic motor vehicle fuel derived in whole or in part
20 from coal, the [department is] departments are authorized to
21 utilize such synthetic fuel in a limited number of State-owned
22 vehicles on an experimental basis and to make necessary
23 mechanical changes in those vehicles to facilitate the
24 experimentation.

25 (c) If, as a result of the monitoring and experimentation
26 conducted in accordance with subsections (a) and (b), the
27 [department determines] departments determine that there is a
28 sufficient, assured supply of such synthetic fuel which can be
29 used in one or more State-owned vehicles at a reasonable cost
30 and without creating any significant threat to the environment,

1 the [department] departments shall submit to the General
2 Assembly a plan for such conversion. Such plan shall be
3 accompanied by a summary report setting forth the basis for the
4 [department's] determination that such conversion is feasible.

5 Section 2801-C. Definitions.--The following words and
6 phrases when used in this article shall have the meanings given
7 to them in this section unless the context clearly indicates
8 otherwise:

9 "Authority" means the Energy Development Authority.

10 "Board" means the board of directors of the authority.

11 "Bond" or "Bonds" means notes, bonds, refunding or renewal
12 notes and bonds and other evidence of indebtedness or
13 obligations which the authority is authorized to issue.

14 "Cost" means the expense of construction and the expense of
15 acquisition of all structures, lands and other property rights
16 and interests in land necessary to a project. The term also
17 includes the expense of demolishing, removing or relocating any
18 buildings or structures on lands acquired or to be acquired,
19 including the expense of acquiring any lands to which such
20 buildings or structures may be moved or relocated; sewage
21 treatment, waste treatment and pollution control facilities;
22 railroad sidings, spurs or branch lines; all labor, materials,
23 machinery and equipment, fixtures; financing charges; interest
24 on all bonds prior to and during construction, and for a period
25 of one year thereafter; engineering, financial and legal
26 services; plans, specifications, studies, surveys necessary or
27 incidental to determining the feasibility or practicability of
28 constructing a project; administrative expenses; reserves for
29 interest and for extension, enlargements, additions and
30 improvements; and such other expenses as may be necessary or

1 incidental to the construction of the project and the placing of
2 the same in operation.

3 "Energy or fuel supply emergency" means a state of emergency,
4 declared by proclamation of the Governor within twenty-four
5 hours after the occurrence of an energy resource shortage or
6 supply or distribution problem resulting because of an absence
7 of availability or a critically reduced supply of any energy
8 source, which cannot be satisfactorily alleviated or resolved by
9 or under the authority of State regulatory authorities having
10 jurisdiction over such energy resources, thereby jeopardizing
11 the health, safety, welfare and economic well-being of the
12 inhabitants of this Commonwealth.

13 "Energy resource" means any force or material which yields or
14 has the potential to yield energy, including, but not limited
15 to, electrical, fossil and nuclear sources.

16 "Person" means a natural person, corporation, partnership,
17 association, and any municipality of this Commonwealth and any
18 public corporation, authority or body whatsoever.

19 "Petroleum product" includes motor gasoline, kerosene,
20 distillates (including Number 2 fuel oil) and diesel fuel.

21 "Project" means an activity, entirely or largely conducted in
22 Pennsylvania, which cannot be effectively funded using privately
23 available resources, relating to:

24 (1) basic and applied research concerning energy use,
25 renewable energy resources and energy extraction, transmission,
26 storage or conversion;

27 (2) limited scale demonstration of innovative or
28 commercially unproven technology to promote the production, use
29 or conservation of energy; [or]

30 (3) activities to promote or remove obstacles to the

1 utilization and transportation of Pennsylvania energy resources,
2 including but not limited to limited scale synthetic fuel
3 facilities and the conversion or technological improvement of
4 industrial, commercial or agricultural systems to utilize
5 Pennsylvania coal or renewable energy resources: Provided, That
6 no such facility unreasonably interferes with private waste
7 recycling industries[.];

8 (4) activities to promote and develop projects, on a local
9 or regional basis, for the cogeneration of power through the
10 utilization of solid waste; or

11 (5) activities which seek to reduce pollution and are
12 associated with energy development, production or distribution.

13 "Renewable energy source" means any method, process or
14 substance whose supply is rejuvenated through natural processes
15 and, subject to those material processes, remains relatively
16 constant, including, but not limited to, biomass conversion,
17 geothermal energy, solar and wind energy and hydroelectric
18 power, and excluding those sources of energy used in the fission
19 and fusion processes.

20 Section 2802-C. [Emergency Petroleum Product Shortages.--(a)
21 The Governor may, by executive order, proclaim a state of
22 emergency based upon a finding that there impends or exists a
23 substantial shortage of petroleum products available for use in
24 Pennsylvania which poses a serious threat to health, safety or
25 welfare of the public.] Energy or Fuel Supply Emergency.--(a)
26 In the event that the threat or danger of an energy or fuel
27 supply emergency is imminent, the Governor may, after
28 consultation with the Lieutenant Governor, the Department of
29 Energy, the Pennsylvania Public Utility Commission and the
30 Department of Environmental Resources, declare a state of energy

1 or fuel supply emergency. A state of energy or fuel supply
2 emergency shall remain in effect for the maximum period of
3 ninety days [and may be extended], but may be terminated or
4 extended by the Governor unless the termination or extension is
5 disapproved by concurrent resolution adopted by both Houses of
6 the General Assembly. A state of emergency may be declared for
7 all or any portion of the Commonwealth.

8 (b) [Upon proclamation of a state of emergency, the Governor
9 shall designate a State agency to conduct emergency allocation
10 measures during the period of the declared emergency. Emergency
11 allocation measures may consist of:

12 (1) the administration of any emergency allocation powers
13 delegated to the State by the President or any Federal agency;

14 (2) the implementation of a set aside program, for not more
15 than one percent (1%) of the petroleum products available for
16 use in Pennsylvania, to alleviate hardship or meet emergency
17 needs. A set aside program shall be established in conformity
18 with any Federal law, regulations or executive orders governing
19 petroleum allocation, and shall apply only to petroleum products
20 found to be in a substantial shortage;

21 (3) measures to reduce the demand for or consumption of
22 gasoline; and

23 (4) other measures identified by the Governor in his
24 executive order proclaiming a state of emergency as necessary to
25 protect the public health, safety and welfare.

26 (c) The agency designated by the Governor to conduct
27 emergency measures may, during the period of the emergency,
28 adopt rules and regulations pursuant to section 204 of the act
29 of July 31, 1968 (P.L.769, No.240), referred to as the
30 Commonwealth Documents Law. Any regulation adopted during a

1 state of emergency shall be automatically rescinded upon the
2 expiration of the emergency.

3 (d) The Governor may designate a state agency to monitor
4 supplies of petroleum products available for use in the
5 Commonwealth to determine whether there exists, or is likely to
6 exist, an emergency shortage.

7 (1) In order to monitor supplies of petroleum products, the
8 agency may require recordkeeping and periodic reports from
9 petroleum suppliers. These reporting and recordkeeping
10 requirements shall, to the maximum extent possible, employ
11 Federally mandated reports and records, avoid any unnecessary
12 duplicative reporting or recordkeeping, and minimize paperwork,
13 recordkeeping and reporting requirements.

14 (2) Reports filed and records maintained pursuant to this
15 subsection shall be deemed confidential.

16 (3) When a petroleum supplier or a company providing
17 information to a petroleum supplier claims that the information
18 requested by the agency is confidential, proprietary, market or
19 trade secret information, or when the information is deemed
20 confidential pursuant to this section, the agency shall not
21 disclose such information publicly or to any other governmental
22 agency unless the information is aggregated as part of a
23 statistical report in which the data and individual companies
24 supplying the data cannot be identified.

25 (4) No employe or appointee of the agency or other person
26 may release information from a petroleum product company that
27 would enable data provided by or relating to individual
28 customers of the petroleum company to be identified as relating
29 to or coming from the individual customer. Any person disclosing
30 such information in violation of this section shall be guilty of

1 a misdemeanor, shall be subject to disciplinary action,
2 including reprimand, suspension or termination, and may be
3 ordered to make restitution to any injured or aggrieved party
4 for losses or damages shown.

5 (5) In order to obtain information required pursuant to this
6 subsection, the agency designated by the Governor to monitor
7 supplies of petroleum products may receive or share information
8 from any other Commonwealth, Federal or local agency: Provided,
9 That the agency shall provide the same confidentiality to
10 information recovered as is provided by the supplying agency.]
11 Upon proclamation of a state of emergency, the Governor shall
12 have the power:

13 (1) To direct the Department of Energy to conduct emergency
14 petroleum allocation measures which may consist of any of the
15 following:

16 (i) The administration of any emergency petroleum allocation
17 powers delegated to the State by the President or any Federal
18 agency.

19 (ii) The implementation of a set-aside program, for not more
20 than one per centum (1%) of the petroleum products available for
21 use in this Commonwealth, to alleviate hardship or meet
22 emergency needs. A set-aside program shall be established in
23 conformity with any Federal law, regulations or executive orders
24 governing petroleum allocation, and shall apply only to
25 petroleum products found to be in a substantial shortage.

26 (iii) Measures to reduce the demand for or consumption of
27 petroleum products.

28 (iv) The adoption of rules and regulations in the manner
29 provided by law. Any regulation adopted during a state of
30 emergency shall be automatically rescinded upon the expiration

1 of the emergency.

2 (v) Any other measures deemed necessary to protect the
3 public health, safety and welfare.

4 (2) To encourage increased use of renewable energy sources.

5 (3) To suspend or modify existing State standards and
6 requirements affecting or affected by the use of energy
7 resources, including those related to air quality control.

8 (4) To order specific restrictions on the use and sale of
9 energy resources, including, but not limited to:

10 (i) Restrictions on the interior temperature of public,
11 commercial, industrial and school buildings.

12 (ii) Restrictions on the hours and days during which public,
13 commercial, industrial and school buildings may be open.

14 (iii) Restrictions on lighting levels in public, commercial,
15 industrial and school buildings.

16 (iv) Restrictions on the use of display and decorative
17 lighting.

18 (v) Restrictions on the use of privately owned vehicles or a
19 reduction in speed limits.

20 (vi) Restrictions on the use of public transportation,
21 including directions to close a public transportation facility.

22 (vii) Restrictions on the use of pupil transportation
23 programs operated by public schools.

24 (viii) Reduction in the number of elevators operating in
25 office buildings during nonpeak hours.

26 (ix) Curtailment of nighttime sports, entertainment and
27 recreational activities.

28 (x) Closing of public museums, art galleries and historic
29 buildings.

30 (xi) Requiring Sunday closings of retail establishments,

1 except for those retail establishments that provide goods or
2 services essential to the public welfare.

3 (xii) Reduction in the number of hours during which retail
4 establishments may be open for business, except for those retail
5 establishments which provide goods or services essential to the
6 public welfare. Any retail establishment subject to this
7 subclause shall be permitted to set its specific hours of
8 operation, provided the total number of hours does not exceed
9 the maximum number of hours authorized pursuant to this
10 subclause.

11 (c) Any restrictions ordered by the Governor shall be
12 automatically rescinded upon the expiration of the emergency.

13 (d) Any actions taken by the Governor pursuant to this
14 section, insofar as they may apply to a regulated utility, shall
15 not conflict with or supersede regulations or orders of the
16 Pennsylvania Public Utility Commission or curtailment procedures
17 on file with the Pennsylvania Public Utility Commission, nor
18 shall any restrictions on the use of fuel for the generation of
19 energy or on the transportation of fuel for the generation of
20 energy be imposed prior to consultation with the Pennsylvania
21 Public Utility Commission.

22 (e) An executive order, proclamation or directive issued
23 under this section shall be disseminated promptly by means
24 calculated to bring its contents to the attention of the
25 citizens of this Commonwealth and published in accordance with
26 the law. The Governor shall notify the General Assembly promptly
27 of an executive order, proclamation or directive issued under
28 this article.

29 (f) Any person who knowingly violates any order,
30 proclamation or directive issued by the Governor under this

section commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than five hundred dollars (\$500). Each day of a continuing violation shall be a separate offense.

(g) Nothing in this article shall limit the authority of the Pennsylvania Public Utility Commission to regulate public utility service as provided in Title 66 of the Pennsylvania Consolidated Statutes (relating to public utilities).

Section 8. The act is amended by adding a section to read:

Section 2802.1-C. Coordination of Monitoring of Supplies of Energy Resources.--(a) The Department of Energy shall coordinate the monitoring of supplies of energy resources available for use in this Commonwealth to determine whether there exists, or is likely to exist, an emergency shortage.

(b) In order to coordinate the monitoring of energy resources, the Department of Energy may require recordkeeping and periodic reports from energy resource suppliers. These reporting and recordkeeping requirements shall, to the maximum extent possible, employ mandated reports and records of other Federal, State or local agencies, avoid any unnecessary duplicative reporting or recordkeeping, and minimize paperwork, recordkeeping and reporting requirements.

(c) Any agency that provides or receives reports or records under this act, any other act, any rule or regulation or any executive order or similar directive for the purpose of monitoring or coordinating the monitoring of supplies of energy resources shall keep such records or reports confidential unless the reports or records are deemed to be public information pursuant to the act, rule or regulation, executive order or directive under which they are provided.

1 (d) When an energy resource supplier or a company providing
2 information to an energy resource supplier claims that the
3 information requested by the agency is confidential,
4 proprietary, market or trade secret information, or when the
5 information is deemed confidential pursuant to this section, the
6 agency shall not disclose such information publicly or to any
7 other governmental agency unless the information is aggregated
8 as part of a statistical report in which the data and individual
9 companies supplying the data cannot be identified.

10 (e) No employe or appointee of the agency or other person
11 may release information from an energy resource company that
12 would enable data provided by or relating to individual
13 customers of the energy resource company to be identified as
14 relating to or coming from the individual customer. Any person
15 disclosing such information in violation of this section shall
16 be guilty of a misdemeanor of the third degree, shall be subject
17 to disciplinary action, including reprimand, suspension or
18 termination, and may be ordered to make restitution to any
19 injured or aggrieved party for losses or damages shown.

20 (f) In order to obtain information required pursuant to this
21 section, the Department of Energy may receive or share
22 information from any other Federal, State or local agency:
23 Provided, however, That the Department of Energy shall provide
24 the same confidentiality to information received as is provided
25 by the supplying agency.

26 Section 9. Section 2803-C of the act, amended or added
27 December 14, 1982 (P.L.1213, No.280) and July 11, 1985 (P.L.211,
28 No.55), is amended to read:

29 Section 2803-C. Energy Development Authority.--(a) There is
30 hereby established within the Department of Energy the Energy

1 Development Authority.

2 (b) The authority shall be governed and all of its corporate
3 powers exercised by a board of directors which shall be composed
4 of the following individuals:

5 (1) Nine members to be appointed by the Governor, one of
6 whom shall be designated as chairman. At least two members shall
7 be members of the general public. The members initially
8 appointed shall serve for terms of two, three and four years,
9 respectively, the particular term of each to be designated by
10 the Governor at the time of appointment. The terms of all of
11 their successors shall be four years each, except that any
12 person appointed to fill a vacancy shall serve only for the
13 unexpired term. Every member's term shall extend until his
14 successor is appointed and qualified. Any appointment of a
15 member of the authority shall be subject to the advice and
16 consent of a majority of all of the members of the Senate. Any
17 appointed member of the authority shall be eligible for
18 reappointment.

19 (2) The Secretary of Energy or his designee.

20 [(2)] (3) The Secretary of Environmental Resources or his
21 designee.

22 [(3)] (4) The Secretary of Banking or his designee.

23 [(4)] (5) The Secretary of Commerce or his designee.

24 [(5)] (6) The Secretary of Agriculture or his designee.

25 [(6)] (7) Two members of the Senate, one from the majority
26 party and one from the minority party, to be appointed by the
27 President pro tempore to serve at his pleasure, or the designees
28 appointed by such members.

29 [(7)] (8) Two members of the House of Representatives, one
30 from the majority party and one from the minority party, to be

1 appointed by the Speaker of the House to serve at his pleasure,
2 or the designees appointed by such members.

3 [(8)] (9) The Consumer Advocate or his designee.

4 [(9)] (10) The Chairman of the Public Utility Commission or
5 his designee.

6 (11) The Chairman of the Energy Research and Development
7 Advisory Board.

8 (c) The members of the board of directors shall be entitled
9 to no compensation for their services as members but shall be
10 entitled to reimbursement for all necessary expenses incurred in
11 connection with the performance of their duties as members.

12 (d) The board of directors shall provide for the holding of
13 regular and special meetings. Ten directors attending shall
14 constitute a quorum for the transaction of any business and at
15 least six votes shall be required to adopt any action, except
16 that at least nine votes shall be required to approve financial
17 assistance for any project.

18 Section 10. Section 2804-C(a) of the act, added December 14,
19 1982 (P.L.1213, No.280), is amended to read:

20 Section 2804-C. Technical and Financial Support.--(a) The
21 [Governor shall designate a State agency to] Department of
22 Energy shall provide staff services to the authority for its
23 administration of the act, including technical services to
24 assist the authority in carrying out the provisions of this
25 article.

26 * * *

27 Section 11. Section 2807-C(a) of the act, amended December
28 15, 1988 (P.L.1239, No.152), is amended to read:

29 Section 2807-C. Authority Indebtedness.--(a) The authority
30 shall have the power and hereby is authorized from time to time,

1 by resolution of the authority and subject to the written
2 approval of the Governor, to issue its negotiable bonds in such
3 principal amount as, in the opinion of the authority, shall be
4 necessary to provide sufficient funds for any of its corporate
5 purposes, the establishment of reserves to secure such bonds and
6 all other expenditures of the authority incident to and
7 necessary or convenient to carry out its corporate purposes and
8 powers. The authority may issue its bonds to provide financial
9 assistance for projects only after the authority has first
10 identified and approved such projects. The aggregate principal
11 amount of bonds and notes of the authority shall not exceed
12 [\$300,000,000] \$400,000,000 outstanding at any one time.

13 * * *

14 Section 12. All personnel, allocations, appropriations,
15 equipment, files, records, contracts, agreements, obligations
16 and other material which are used, employed or expended in
17 connection with the powers, duties or functions of the
18 Pennsylvania Energy Office are hereby transferred to the
19 Department of Energy established by this act with the same force
20 and effect as if the appropriations had been made to and the
21 items had been the property of the Department of Energy in the
22 first instance, and as if the contracts, agreements and
23 obligations had been incurred or entered into by the Department
24 of Energy. The personnel, appropriations, equipment and other
25 items and material transferred by this section shall include
26 Federal grants and funds and other benefits from any Federal
27 program. All personnel transferred under this act shall retain
28 any civil service employment status assigned to the personnel.

29 Section 13. In addition to the retention of civil service
30 employment status by employees transferred to the Department of

1 Energy, all new positions in the Department of Energy shall be
2 deemed to be included in the list of positions set forth in
3 section 3(d) of the act of August 5, 1941 (P.L.752, No.286),
4 known as the Civil Service Act, and the provisions and benefits
5 of that act shall be applicable to all employees of the
6 Department of Energy.

7 Section 14. (a) Nothing set forth in this act shall
8 supersede any curtailment plans which are established and
9 approved by any Federal regulatory commission, the Pennsylvania
10 Public Utility Commission or any ordinance duly adopted by any
11 municipality or public gas system.

12 (b) All orders, permits, regulations, decisions and other
13 actions of the Pennsylvania Energy Office or any department,
14 board, commission or agency whose functions have been
15 transferred by this act to the Department of Energy shall remain
16 in full force and effect until modified, repealed, superseded or
17 otherwise changed by appropriate action of the Department of
18 Energy.

19 (c) The Department of Energy shall not have any authority to
20 take any action affecting the jurisdiction of the Pennsylvania
21 Public Utility Commission or any Federal administrative or
22 regulatory agency. The Secretary of Energy, or his designee,
23 however, shall have the authority to appear before the
24 Pennsylvania Public Utility Commission or any Federal
25 administrative or regulatory agency to provide information
26 concerning State energy policies.

27 Section 15. All acts and parts of acts are repealed insofar
28 as they are inconsistent with this act.

29 Section 16. This act shall take effect in 180 days.