

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 658 Session of  
2003

INTRODUCED BY HERMAN, DALEY, PHILLIPS, DeWEESE, HERSHEY, GEORGE, ADOLPH, ALLEN, ARMSTRONG, BASTIAN, BEBKO-JONES, BELFANTI, BROWNE, CAPPELLI, CAWLEY, COSTA, CREIGHTON, CURRY, DAILEY, FAIRCHILD, GRUCELA, GRUITZA, HARHAI, HARPER, HENNESSEY, LaGROTTA, LAUGHLIN, LEACH, McILHATTAN, PALLONE, PETRARCA, READSHAW, REICHLEY, SAINATO, SANTONI, SATHER, SAYLOR, SEMMEL, SHANER, STAIRS, TANGRETTI, TIGUE, WASHINGTON, WILT AND WOJNAROSKI, MARCH 4, 2003

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, MARCH 4, 2003

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," further providing for  
21 energy development; abolishing the Energy Development  
22 Authority; establishing the Energy Partnership; and making an  
23 appropriation.

24 The General Assembly finds and declares as follows:

25 (1) The purpose of this act is to establish an advisory

1 board on energy issues and provide a solid base of State  
2 funding for energy research programs in this Commonwealth.

3 (2) Although there are abundant indigenous energy  
4 resources, Pennsylvania faces a tremendous challenge to meet  
5 its energy needs while protecting the public and the  
6 environment.

7 (3) Without adequate attention to continuing input from  
8 persons knowledgeable about energy-related issues in this  
9 Commonwealth and without sufficient State funding for  
10 targeted research, Pennsylvania faces the consequences of  
11 falling behind on energy information, projects and programs  
12 affecting quality of life now and in the future.

13 (4) The Energy Institute at The Pennsylvania State  
14 University and other Pennsylvania colleges and universities  
15 have endeavored to work with Federal and State Government  
16 agencies and with industry and labor engaged in the energy  
17 sector to improve Pennsylvania's energy and environmental  
18 future, but their research is significantly underfunded.

19 (5) This underfunding represents missed opportunities  
20 for Pennsylvania to participate in research and development  
21 programs that require matching funds and it places the  
22 Commonwealth in a poor competitive position with respect to  
23 other states rich in energy resources.

24 (6) Pennsylvania must help publicly supported  
25 researchers to work closely with energy businesses,  
26 consumers, conservationists, environmentalists and others to  
27 identify challenges and opportunities before such research is  
28 conducted and to transfer the information and technology  
29 resulting from such research.

30 (7) This act promotes Pennsylvania as a leader in

1 energy-related issues and provides funds to support targeted  
2 research initiatives so that the Commonwealth can meet  
3 tomorrow's energy needs while using our natural resources  
4 responsibly.

5 (8) Energy research and development is a critically  
6 important activity with great public benefits.

7 (9) The Energy Institute at The Pennsylvania State  
8 University and other Pennsylvania colleges and universities  
9 conduct basic, developmental and adaptive research related to  
10 the energy and related environmental sectors.

11 (10) Commonwealth funds should be expended to enhance  
12 and sustain publicly supported programs for energy and  
13 related environmental research in Pennsylvania.

14 (11) An energy partnership board should be established  
15 to advise the Governor and the Department of Community and  
16 Economic Development regarding energy supply, development,  
17 production, use and demand management in Pennsylvania.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. Section 2801-C of the act of April 9, 1929  
21 (P.L.177, No.175), known as The Administrative Code of 1929,  
22 added December 14, 1982 (P.L.1213, No.280), is amended to read:

23 Section 2801-C. Definitions.--The following words and  
24 phrases when used in this article shall have the meanings given  
25 to them in this section unless the context clearly indicates  
26 otherwise:

27 ["Authority" means the Energy Development Authority.]

28 "Board" means the board of directors of the [authority]  
29 partnership.

30 ["Bond" or "Bonds" means notes, bonds, refunding or renewal

1 notes and bonds and other evidence of indebtedness or  
2 obligations which the authority is authorized to issue.]

3 "Carbon-based industries" means Pennsylvania-based aggregate,  
4 coal, electricity-generation, petroleum and natural gas  
5 industries.

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

25 "Department" means the Department of Community and Economic  
26 Development of the Commonwealth.

27 "Partnership" means the Energy Partnership established in  
28 section 2803-C.

29 "Person" means a natural person, corporation, partnership,  
30 association, and any municipality of this Commonwealth and any

1 public corporation, authority or body whatsoever.

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

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

7 (1) basic and applied research concerning energy use, energy  
8 demand management, renewable energy resources and energy  
9 extraction, transmission, storage [or], conversion, pollution  
10 avoidance and control technologies and development of value-  
11 added products using carbon-based industries and resources;

12 (2) limited scale demonstration of innovative or  
13 commercially unproven technology to promote the conservation,  
14 production[,] or use [or conservation] of energy and aggregate  
15 resources, consistent with economic feasibility, environmental  
16 protection and public health and safety; or

17 (3) activities to promote or remove obstacles to the  
18 utilization and transportation of Pennsylvania energy resources,  
19 including but not limited to limited scale synthetic fuel  
20 facilities and the conversion or technological improvement of  
21 industrial, commercial or agricultural systems to utilize  
22 Pennsylvania [coal or] carbon-based, aggregate and renewable  
23 energy resources: Provided, That no such facility unreasonably  
24 interferes with private waste recycling industries.

25 "Renewable resources" means sources of electricity which can  
26 be naturally replenished, including solar, wind, geothermal,  
27 biomass and small hydroelectric resources and alternative  
28 generation technologies, such as fuel cells.

29 Section 2. Section 2803-C of the act, amended or added  
30 December 14, 1982 (P.L.1213, No.280) and July 11, 1985 (P.L.211,

1 No.55), is amended to read:

2 Section 2803-C. Energy [Development Authority]  
3 Partnership.--(a) [There] The Energy Partnership is [hereby]  
4 established [the Energy Development Authority] as an advisory  
5 board in the department.

6 (b) The [authority] partnership shall [be governed and all  
7 of its corporate powers exercised by a board of directors which  
8 shall] be composed of the following individuals:

9 (1) [Nine] Sixteen members to be appointed by the Governor.  
10 [, one of whom shall be designated as chairman. At least two  
11 members shall be members of the general public. The members  
12 initially appointed shall serve for terms of two, three and four  
13 years, respectively, the particular term of each to be  
14 designated by the Governor at the time of appointment. The terms  
15 of all of their successors shall be four years each, except that  
16 any person appointed to fill a vacancy shall serve only for the  
17 unexpired term. Every member's term shall extend until his  
18 successor is appointed and qualified. Any appointment of a  
19 member of the authority shall be subject to the advice and  
20 consent of a majority of all of the members of the Senate. Any  
21 appointed member of the authority shall be eligible for  
22 reappointment.] The Governor shall designate one of the public  
23 officials appointed by him as chairman of the partnership, and  
24 that official shall serve as chief advisor to the Governor and  
25 the department for energy policy and research development.  
26 Members must be knowledgeable in fields related to energy and  
27 aggregate resource development, production and use. Appointments  
28 shall be as follows:

29 (i) Two members must each be a representative of an electric  
30 power utility.

1       (ii) One member must be a representative of the independent  
2 oil or gas exploration and production industry in this  
3 Commonwealth.

4       (iii) One member must be a representative of a local natural  
5 gas distribution company in this Commonwealth.

6       (iv) One member must be a representative of the crude oil  
7 refining industry operating in this Commonwealth.

8       (v) One member must be a representative of the anthracite  
9 coal industry.

10       (vi) One member must be a representative of the bituminous  
11 coal industry.

12       (vii) One member must be a representative of a small power  
13 producer.

14       (viii) Two members must be representatives of renewable  
15 energy producers.

16       (ix) One member must be a representative of either the  
17 energy efficiency industry or the demand-side management  
18 industry.

19       (x) One member must be a representative of an aggregate  
20 industry.

21       (xi) One member must be a representative of the Energy  
22 Institute of The Pennsylvania State University. The member under  
23 this subclause shall be a nonvoting member.

24       (xii) One member must be a representative of the energy  
25 research staff of a college or university other than The  
26 Pennsylvania State University. The member under this subclause  
27 shall be a nonvoting member.

28       (xiii) One member must be a representative of an  
29 organization which represents environmental interests.

30       (xiv) One member must be a representative of organized labor

1 who is employed by an energy-related industry.

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

4 (3) The Secretary of [Banking] Public Welfare or his  
5 designee.

6 (4) The Secretary of [Commerce] Community and Economic  
7 Development or his designee.

8 (5) The Secretary of Agriculture or his designee.

9 (6) Two members of the Senate, one from the majority party  
10 and one from the minority party, to be appointed by the  
11 President pro tempore to serve at his pleasure, or the designees  
12 appointed by such members.

13 (7) Two members of the House of Representatives, one from  
14 the majority party and one from the minority party, to be  
15 appointed by the Speaker of the House to serve at his pleasure,  
16 or the designees appointed by such members.

17 (8) The Consumer Advocate or his designee.

18 (9) The Chairman of the Public Utility Commission or his  
19 designee.

20 (10) The Director of the Pennsylvania Emergency Management  
21 Agency.

22 (c) The members of the board of directors shall be entitled  
23 to no compensation for their services as members but shall be  
24 entitled to reimbursement for [all necessary] travel, room and  
25 board expenses incurred in [connection with the performance of  
26 their duties as members] attending partnership meetings.

27 (d) The board of directors shall provide for the holding of  
28 regular and special meetings. [Ten] Thirteen directors attending  
29 shall constitute a quorum for the transaction of any business  
30 and at least [six] nine votes shall be required to adopt any

1 action, except that at least [nine] eleven votes shall be  
2 required to [approve] recommend financial assistance for any  
3 project.

4 (e) Recusal shall be as follows:

5 (1) A director may not participate in a decision affecting  
6 an entity if the director or a member of the director's  
7 immediate family:

8 (i) is a partner in the entity;

9 (ii) is a director or an officer of the entity; or

10 (iii) holds at least five percent (5%) voting stock in the  
11 entity.

12 (2) A decision made in violation of clause (1) is void.

13 (3) Recusal under clause (1) shall not affect the quorum  
14 under subsection (d).

15 (f) The persons who on the effective date of this subsection  
16 are members of the board of directors of the former Energy  
17 Development Authority who meet the requirements of subsection  
18 (b)(1) may continue to serve on the board until their terms on  
19 the Energy Development Authority would have expired and may be  
20 reappointed to the board of directors of the partnership for  
21 successive terms.

22 Section 3. Section 2804-C of the act, added December 14,  
23 1982 (P.L.1213, No.280), is amended to read:

24 Section 2804-C. Technical and Financial Support.--(a) The  
25 [Governor] department shall [designate a State agency to]  
26 provide staff services to the [authority] partnership for its  
27 administration of [the act] this article, including technical  
28 services to assist the [authority] partnership in carrying out  
29 the provisions of this article.

30 (b) The [authority] partnership may utilize personnel and

1 services from any departments, agencies or any other authorities  
2 of the Commonwealth whose facilities and services may be useful  
3 to the [authority] partnership for [their] implementation of  
4 this article upon approval of such departments, agencies or  
5 authorities.

6 (c) The [authority] partnership is authorized to make  
7 reimbursement to any agency, department or authority of the  
8 Commonwealth for such expenses as may be incurred in the  
9 provision of any services or the use of any facilities acquired  
10 by the [authority] partnership.

11 (d) Notwithstanding the provisions of 66 Pa.C.S. § 511  
12 (relating to disposition, appropriation and disbursement of  
13 assessments and fees), or any other statute of this  
14 Commonwealth, no funds received as reimbursement under this  
15 section shall be considered to be in substitution for funds from  
16 any other source, nor shall such funds reduce assessments to any  
17 utility. No such funds shall lapse at the termination of any  
18 fiscal year nor shall such funds reduce any assessment by the  
19 Public Utility Commission in any fiscal year.

20 Section 4. Sections 2806-C, 2807-C, 2808-C, 2809-C, 2810-C,  
21 2811-C, 2812-C and 2813-C of the act are repealed.

22 Section 5. The act is amended by adding sections to read:

23 Section 2814-C. Powers and Duties.--(a) The department  
24 assumes all outstanding obligations of the former Energy  
25 Development Authority.

26 (b) The partnership shall serve as advisor to the Governor  
27 and the department and make recommendations on energy matters,  
28 including:

29 (1) The status of energy supply and production in this  
30 Commonwealth.

1       (2) More prudent and efficient use of energy in this  
2 Commonwealth.

3       (3) Promoting the development of this Commonwealth's  
4 abundant carbon-based energy resources in an environmentally  
5 sound manner.

6       (4) Planning for future energy needs and potential energy  
7 emergencies.

8       (5) Providing affordable and secure energy sources to  
9 citizens of this Commonwealth, with special attention to the  
10 needs of low-income citizens.

11       (6) Improving the reliability and security of energy supply  
12 and generation in this Commonwealth.

13       (7) Pursuing a diverse, flexible and balanced energy supply  
14 mix.

15       (8) Balancing the needs of energy users and energy producers  
16 through regulations which promote improved government-to-  
17 industry relations, better customer service and reasonable costs  
18 for users and producers.

19       (9) Marketing, and providing data about, this Commonwealth's  
20 energy resources to interested parties.

21       (10) Sustaining, expanding and developing market  
22 applications for the Commonwealth's energy resources.

23       (11) Promoting the development and marketing of this  
24 Commonwealth's renewable energy resources.

25       (12) Promoting energy conservation technologies and  
26 encouraging the conservation of energy on a continuing basis,  
27 even at times when there is an abundant supply of energy.

28       (13) Under section 2815-C, reviewing and recommending  
29 financial assistance for projects through grants or loans  
30 approved by the department, with emphasis upon establishing

1 project partnerships with energy industries, Federal agencies  
2 and institutions of higher education in this Commonwealth.

3 Section 2815-C. Allocation and Use of Financial Assistance  
4 Funds for Energy Projects.--(a) (1) Appropriations for energy  
5 projects shall be made to the department, which, after  
6 consultation with the partnership, shall allocate funds  
7 appropriated under this article to the following entities,  
8 providing each the shares indicated:

9 (i) the Energy Institute at The Pennsylvania State  
10 University, eighty percent (80%); and

11 (ii) other Pennsylvania colleges and universities with  
12 energy-related research programs, twenty percent (20%), which  
13 shall be allocated to one or more applying universities on a  
14 project-by-project basis.

15 (2) Three years after the effective date of this section and  
16 every three years thereafter, the partnership shall review the  
17 percentages set forth in clause (1) and make recommendations to  
18 the department regarding their appropriateness. The department  
19 shall report continued or revised levels of allocations to the  
20 General Assembly in its annual budget request.

21 (b) The universities receiving funds under this article  
22 shall work closely with the partnership to develop and  
23 prioritize an energy research, development and application  
24 agenda. To support that agenda, funds shall be expended as  
25 follows:

26 (1) To support a broad program of energy research, to  
27 include research on the development, use and marketing of  
28 Pennsylvania carbon-based energy resources and the related  
29 environmental, economic and social impacts of the results of  
30 such research, development and application activities.

1       (2) To support research in pursuit of an affordable,  
2 balanced and reliable energy supply mix to meet future energy  
3 needs and environmental requirements.

4       (3) To support nonprofit groups that provide energy  
5 assistance, utility assistance or weatherization or cooling  
6 assistance, to promote energy conservation.

7       (4) To meet the expenses required to conduct the research,  
8 development and application activities. It is intended that the  
9 institutions that receive energy research assistance shall  
10 continue to:

11       (i) operate and maintain the on-campus buildings and  
12 facilities used in their energy-related programs and to provide  
13 the support services typically provided other university  
14 programs from the higher education budget; and

15       (ii) fund energy-related programs from the higher education  
16 budget.

17       (5) (i) A minimum of eighty-five percent (85%) of the funds  
18 allocated to each institution shall be used to fund and support  
19 research, development and application activities identified in  
20 clauses (1) through (4). Of this amount, a minimum of ten  
21 percent (10%) shall be used to fund an innovative competitive  
22 grants program administered jointly by the institutions  
23 identified in subsection (a).

24       (ii) The grants program is intended to be organized around  
25 desired practical, quantifiable and achievable objectives in the  
26 energy sector.

27       (iii) Proposals may be submitted by any nonprofit  
28 institution, organization, agency or business in this  
29 Commonwealth. All research, development and application  
30 activities must take place within this Commonwealth.

1       (iv) The principal investigator must be a qualified  
2 researcher with experience in an energy-related industry or  
3 discipline.

4       (v) The partnership shall be advised of submitted proposals,  
5 and, at its discretion, may assist in evaluating and selecting  
6 proposals for cooperative funding.

7       (6) Funds from other public or private sources shall be  
8 combined with funds appropriated under this article to support  
9 projects and related expenses authorized under this section such  
10 that the funds awarded under this section constitute no more  
11 than seventy-five percent (75%) of the total direct cost of each  
12 project.

13       (c) This section shall apply to all projects, including  
14 those at the institutions named in this section.

15       Section 2816-C. Administrative Oversight.--(a) The  
16 department shall provide general administrative oversight with  
17 the assistance and advice of the partnership. Energy research  
18 administrators at each of the funded institutions shall  
19 administer the specifics of the research program. Annually,  
20 these administrators shall prepare a combined proposed budget  
21 that the Secretary of Community and Economic Development shall  
22 submit to the Governor for inclusion in the executive budget and  
23 consideration by the General Assembly. The budget shall specify  
24 major categories of proposed expenditures, including salaries,  
25 wages, benefits, operation and maintenance costs, supplies and  
26 expenses, and capital improvements related to energy research  
27 projects.

28       (b) To offset the cost of administering this article, the  
29 department may retain one percent (1%) of the total  
30 appropriation under section 2817-C.

1       Section 2817-C. Appropriation.--The sum of \$6,000,000, or as  
2 much thereof as may be necessary, is hereby appropriated to the  
3 Department of Community and Economic Development for the fiscal  
4 year July 1, 2003, to June 30, 2004, to carry out the purposes  
5 of this article.

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