
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2994 Session of
2004

INTRODUCED BY CALTAGIRONE, FABRIZIO, GEORGE, LAUGHLIN, BASTIAN,
GOODMAN AND YOUNGBLOOD, NOVEMBER 15, 2004

REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 15, 2004

AN ACT

1 Authorizing State investment tax credits for qualified animal
2 waste recycling facilities; further authorizing limited sales
3 and use tax exemption; and establishing the Animal Waste
4 Recycling Fund.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Animal Waste
9 Recycling Act.

10 Section 2. Legislative intent.

11 The General Assembly finds:

12 (1) There is an increasing need for the effective
13 treatment of animal waste from both production facilities as
14 well as processing facilities in order to decrease the amount
15 of pollution generated by these materials.

16 (2) This act is to assist animal waste recycling
17 facilities to economically and efficiently recycle animal
18 wastes and to provide an economic incentive for such

1 facilities to do so for the betterment of the environment of
2 this Commonwealth.

3 (3) This act will supplement ongoing efforts to reduce
4 the amount of pollution emitted into the environment from
5 animal waste.

6 Section 3. Definitions.

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

10 "Animal waste." Material emanating from domestic animal
11 production, keeping or processing, including, but not limited
12 to, excrement, offal, egg, milk, placenta, fetuses, feathers,
13 hair, wool, blood and animal parts, which are not intended or
14 suitable for inclusion in the food chain without special
15 processing.

16 "Department." The Department of Environmental Protection of
17 the Commonwealth.

18 "Recycling." The act of composting, anaerobically digesting,
19 converting or reusing animal waste.

20 "Tax Reform Code of 1971." The act of March 4, 1971 (P.L.6,
21 No.2), known as the Tax Reform Code of 1971.

22 Section 4. Animal waste recycling facilities.

23 (a) Establishment.--There is hereby established within the
24 department a program providing for the designation of a
25 qualified animal waste recycling facility.

26 (b) Eligibility.--The department shall develop criteria to
27 be promulgated in regulatory form for a qualified animal waste
28 recycling facility. Facilities which are qualified under this
29 section shall be entitled to tax credits set forth under this
30 act for a period provided in section 11.

1 Section 5. Qualified animal waste recycling facility
2 designation.

3 In order to qualify each year for a tax exemption, deduction,
4 abatement or credit under this act, a facility must be a
5 qualified animal waste recycling facility meeting all
6 requirements as set forth by the department and meeting all
7 requirements of section 4.

8 Section 6. Sales and use tax exemption.

9 Electricity generated by a qualified animal waste recycling
10 facility, created through the use of anaerobic digestion or
11 other means, that is sold at wholesale or at retail or consumed
12 by the qualified animal waste recycling facility shall be exempt
13 from the sales and use tax imposed under Article II of the Tax
14 Reform Code of 1971 for a period provided in section 11.

15 Section 7. Animal waste recycling investment tax credit.

16 (a) General rule.--A qualified animal waste recycling
17 facility as described in section 5 shall be eligible under
18 Articles III, IV and VI of the Tax Reform Code of 1971 for an
19 investment tax credit equal to 75% of the cost of initial
20 investment.

21 (b) Applicable taxes.--The investment tax credit authorized
22 by this section may be applied against any tax due under
23 Articles III, IV and VI of the Tax Reform Code of 1971.

24 (c) Authorization.--

25 (1) A qualified animal waste recycling facility may
26 apply for a renewable investment tax credit as provided in
27 this section. The department will establish deadlines for
28 applications for the qualified expense incurred in the
29 taxable year that ended in the prior calendar year.

30 (2) A qualified animal waste recycling facility that is

1 qualified under section 5 shall receive an animal waste
2 recycling facility investment tax credit for the taxable year
3 in the amount of 75% of the cost of investment for the use by
4 the qualified animal waste facility as deemed eligible under
5 the regulations established by the department.

6 (3) By December 15 of the calendar year following the
7 close of the taxable year during which the qualified expense
8 was incurred, the department shall notify the qualified
9 animal waste recycling facility of the amount of the
10 investment tax credit approved by the department.

11 (d) Carryover.--

12 (1) The amount of the animal waste recycling facility
13 investment tax credit that may be used against any tax under
14 Article III, IV or VI of the Tax Reform Code of 1971 during
15 any year may not exceed 75% of the qualified tax liability
16 for that taxable year. If the qualified animal waste
17 recycling facility cannot use the entire amount of the
18 investment tax credit for the taxable year in which the
19 credit is first approved, the excess may be carried over to
20 succeeding taxable years and used as a credit against any tax
21 under Article III, IV and VI of the Tax Reform Code of 1971
22 of the qualified animal waste recycling facility for those
23 taxable years.

24 (2) Each time that the animal waste recycling facility
25 investment tax credit is carried over to a succeeding taxable
26 year, it shall be reduced by that amount that was used as a
27 credit during the immediately preceding taxable year. The
28 animal waste recycling facility investment tax credit may be
29 carried over and applied to succeeding taxable years for no
30 more than 15 taxable years following the first taxable year

1 for which the qualified animal waste recycling facility was
2 entitled to claim the credit.

3 (3) An animal waste recycling facility investment tax
4 credit approved by the department for a qualifying expense in
5 a taxable year first shall be applied against the qualified
6 animal waste facility's tax liability for the current taxable
7 year as of the date on which the credit was approved before
8 the animal waste recycling facility investment tax credit is
9 applied against any tax liability under subsection (a).

10 (4) A qualified animal waste recycling facility may not
11 carry back, obtain a refund of or assign any unused animal
12 waste recycling facility investment tax credit.

13 (e) Limitation.--The total amount of all tax credits allowed
14 under this act shall not exceed \$50,000,000 in any one fiscal
15 year.

16 (f) Proration of tax credits.--If the total amount of animal
17 waste recycling facility investment tax credits applied for by
18 all qualified animal waste recycling facilities exceeds the
19 amount allocated for those credits, then the animal waste
20 recycling facility investment tax credit to be received by each
21 applicant shall be prorated among all qualified animal waste
22 recycling facilities.

23 Section 8. State taxes.

24 (a) General rule.--Except as provided in section 11, a
25 qualified animal waste recycling facility shall receive
26 exemptions, deductions, abatements or credits as provided under
27 sections 6 and 7 as long as the facility maintains its qualified
28 designation by the department.

29 (b) Administration and regulations.--

30 (1) The department shall cooperate with the Department

1 of Revenue to administer this act, promulgate appropriate
2 rules, regulations and forms for that purpose and make such
3 determinations as may be required.

4 (2) The department shall be responsible for ensuring
5 that an eligible facility meets the established criteria as a
6 qualified animal waste recycling facility under section 5 and
7 to ensure that the costs for which a tax credit are being
8 sought meet the established eligibility criteria.

9 (3) The Department of Revenue shall administer, construe
10 and enforce this section and sections 6 and 7 in conjunction
11 with Articles II, III, IV and VI of the Tax Reform Code of
12 1971.

13 Section 9. Animal Waste Recycling Fund.

14 (a) Establishment.--There is hereby established a separate
15 fund in the State Treasury to be known as the Animal Waste
16 Recycling Fund. The moneys of this fund shall be allocated to
17 carry out the provisions of this act.

18 (b) Use.--The fund may be used by the department to provide
19 loans at or below prevailing interest rates and equity-like
20 investments to finance or support:

21 (1) The development or operation of a qualified animal
22 waste recycling facility.

23 (2) The purchase and installation of animal waste
24 recycling resource technologies by municipal authorities,
25 political subdivisions, nonprofit entities, cooperatives,
26 corporations, limited liability companies, partnerships
27 incorporated or registered in and individual residents of
28 this Commonwealth.

29 (c) Program guidelines.--The department shall issue
30 guidelines for all eligible uses of the fund.

1 Section 10. Annual report.

2 The department shall annually make a report to the
3 Environmental Resources and Energy Committee of the Senate and
4 the Environmental Resources and Energy Committee of the House of
5 Representatives on the activities undertaken pursuant to this
6 act. The report shall, at a minimum, include information on:

7 (1) The number and amount of tax credits provided.

8 (2) The types of businesses receiving the credits.

9 (3) A breakdown of the tax credits provided by business
10 type.

11 (4) The number, amount and purpose of the loans provided
12 to eligible entities.

13 Section 11. Sunset provisions.

14 The exemptions, deductions, abatements or credits granted
15 under this act shall expire December 31, 2014, or ten years
16 after the effective date of this act, whichever is later.

17 Section 12. Effective date.

18 This act shall take effect in 60 days.