

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 944 Session of  
2007

INTRODUCED BY FRANKEL, BELFANTI, CARROLL, CURRY, DePASQUALE,  
DeWEESE, EVERETT, FABRIZIO, FREEMAN, GEORGE, GIBBONS,  
GOODMAN, HENNESSEY, JAMES, JOSEPHS, LEVDANSKY, MANN,  
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REICHLEY, RUBLEY, McILVAINE SMITH, SOLOBAY, STABACK, WALKO,  
YOUNGBLOOD, YUDICHAK, BEYER AND THOMAS, MARCH 29, 2007

REFERRED TO COMMITTEE ON COMMERCE, MARCH 29, 2007

AN ACT

1 Amending the act of May 17, 1956 (1955 P.L.1609, No.537),  
2 entitled "An act to promote the welfare of the people of the  
3 Commonwealth by the reduction of unemployment in certain  
4 areas of the Commonwealth determined to be critical economic  
5 areas; providing for the establishment of industrial  
6 development projects in such areas; creating The Pennsylvania  
7 Industrial Development Authority as a body corporate and  
8 politic with power to allocate funds for and make secured  
9 loans to industrial development agencies for the payment of a  
10 part of the cost of industrial development projects in  
11 critical economic areas; authorizing the Authority to enter  
12 into agreements with the Government of the United States or  
13 any Federal agency or industrial development agency;  
14 empowering the Authority to take title to, sell, convey and  
15 lease industrial development projects where necessary to  
16 protect loans made by the Pennsylvania Industrial Development  
17 Authority on industrial development projects; providing that  
18 no debt of the Commonwealth, its municipalities or political  
19 subdivisions shall be incurred in the exercise of any powers  
20 granted by this act; and providing for the examination of the  
21 accounts and affairs of the Authority; and making an  
22 appropriation," including biotechnology enterprises and small  
23 business incubators within the scope of the act; and further  
24 regulating loans to industrial development agencies.

25 The General Assembly of the Commonwealth of Pennsylvania

26 hereby enacts as follows:

27 Section 1. The last paragraph of section 2 of the act of May

1 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania  
2 Industrial Development Authority Act, amended July 10, 1963  
3 (P.L.221, No.125), is amended to read:

4 Section 2. Findings and Declaration of Policy.--It is hereby  
5 determined and declared as a matter of legislative finding--

6 \* \* \*

7 Therefore, it is hereby declared to be the policy of the  
8 Commonwealth of Pennsylvania to promote the health, safety,  
9 morals, right to gainful employment, business opportunities and  
10 general welfare of the inhabitants thereof by the creation of a  
11 body corporate and politic to be known as "The Pennsylvania  
12 Industrial Development Authority" which shall exist and operate  
13 for the public purpose of alleviating unemployment with its  
14 resulting spread of indigency and economic stagnation by the  
15 promotion and development of industrial and manufacturing  
16 enterprises [and], research and development facilities,  
17 biotechnology enterprises and small business incubators in those  
18 areas of the Commonwealth in which conditions of critical  
19 unemployment currently or may from time to time exist. Such  
20 purposes are hereby declared to be public purposes for which  
21 public money may be spent.

22 Section 2. Section 3(i) of the act, amended June 16, 1972  
23 (P.L.475, No.153), is amended and the section is amended by  
24 adding clauses to read:

25 Section 3. Definitions.--The following terms, whenever used  
26 or referred to in this act, shall have the following meanings,  
27 except in those instances where the context clearly indicates  
28 otherwise:

29 \* \* \*

30 (i) The term "industrial development project" shall mean any

1 land, site, structure, facility or undertaking comprising or  
2 being connected with or being a part of (i) an industrial  
3 enterprise, (ii) a manufacturing enterprise, (iii) a research  
4 and development enterprise, [or] (iv) an agricultural  
5 enterprise, (v) a biotechnology enterprise, or (vi) a small  
6 business incubator established or to be established by an  
7 industrial development agency in a critical economic area.

8 \* \* \*

9 (v) The term "biotechnology enterprise" shall mean an  
10 enterprise which is engaged in the research, development,  
11 production or provision of biotechnology for the purpose of  
12 developing or providing products, processes or technologies for  
13 specific commercial or public purposes, including, but not  
14 limited to, medical, pharmaceutical, nutritional and other  
15 health-related purposes, agricultural purposes and environmental  
16 purposes, or engaged in providing services or products necessary  
17 for such research, development, product or provision of service,  
18 and which enterprise requires substantial capital by virtue of  
19 its technological needs and creates or will create substantial  
20 employment opportunities by its nature and technological needs.

21 (w) The term "small business incubator" shall mean a  
22 facility in which small units of space may be leased by a tenant  
23 and in which management maintains or provides access to business  
24 development services for use by tenants.

25 Section 3. Section 5(b) of the act, amended July 10, 1963  
26 (P.L.221, No.125), is amended to read:

27 Section 5. Powers of the Authority; General.--The Authority,  
28 as a public corporation and governmental instrumentality  
29 exercising public powers of the Commonwealth, is hereby granted  
30 and shall have and may exercise all powers necessary or

1 appropriate to carry out and effectuate the purposes of this  
2 act, including the following powers, in addition to others  
3 herein granted:

4 \* \* \*

5 (b) To co-operate with industrial development agencies in  
6 their efforts to promote the expansion of industrial,  
7 manufacturing [and], research and development, biotechnology and  
8 small business incubator activity in critical economic areas;

9 \* \* \*

10 Section 4. Section 6(a) of the act, amended July 13, 1988  
11 (P.L.534, No.95), is amended to read:

12 Section 6. Powers of the Authority; Loans to Industrial  
13 Development Agencies.--When it has been determined by the  
14 Authority upon application of an industrial development agency  
15 and hearing thereon in the manner hereinafter provided, that the  
16 establishment of a particular industrial development project of  
17 such industrial development agency in a critical economic area  
18 has accomplished or will accomplish the public purposes of this  
19 act, the Authority may contract to loan such industrial  
20 development agency an amount not in excess of the percentage of  
21 the cost of such industrial development project, as established  
22 or to be established as hereinafter set forth, subject, however,  
23 to the following conditions:

24 (a) Industrial development projects to be established:

25 (1) If the industrial development project is exclusively a  
26 research and development facility other than research and  
27 development of pollution control technology, the Authority may,  
28 in each class of critical economic area, contract to loan the  
29 industrial development agency (45%) of the cost of such  
30 industrial development project if it has determined that the

1 industrial development agency holds funds or property in an  
2 amount or value equal to not less than (5%) of the cost of  
3 establishing the industrial development project, which funds or  
4 property are available for and shall be applied to the  
5 establishment of such project. If the industrial development  
6 project is exclusively a research and development facility for  
7 technology concerning pollution control, the Authority may  
8 contract to loan the industrial development agency in critical  
9 economic area A an amount not in excess of (55%) and in a  
10 critical economic area B or a critical economic area C an amount  
11 not in excess of (50%) of the cost of the industrial development  
12 project: Provided, however, That in each such instance, the  
13 Authority has determined that the industrial development agency  
14 holds funds or property in an amount or value equal to not less  
15 than (5%) of the cost of establishing the industrial development  
16 project, which funds or property are available for and shall be  
17 applied to the establishment of such project.

18 (2) If the industrial development project is any other type  
19 of industrial development project than exclusively a research  
20 and development facility, the Authority may, in critical  
21 economic area A contract to loan the industrial development  
22 agency an amount not in excess of (40%) of the cost of such  
23 industrial development project if it has determined that the  
24 industrial development agency holds funds or property in an  
25 amount or value equal to not less than (10%) of the cost of  
26 establishing the industrial development project, which funds or  
27 property are available for and shall be applied to establishment  
28 of such project.

29 (2.1) Where a contract to loan to an industrial development  
30 agency is to be made under provisions of this subsection (a),

1 the following shall apply: that, in critical economic areas A, B  
2 or C where an average of (8%) or more of the labor force has  
3 been unemployed for the preceding calendar year, the Authority  
4 may contract to loan the industrial development agency an amount  
5 not in excess of (50%) of the cost of an industrial development  
6 project and an amount not in excess of (60%) of the cost of an  
7 industrial development project wherein the responsible buyer or  
8 tenant is a small business on the date of the application; and  
9 where an average of (10%) or more of the labor force has been  
10 unemployed for the preceding calendar year, the Authority may  
11 contract to loan the industrial development agency an amount not  
12 in excess of (60%) of the cost of an industrial development  
13 project and an amount not in excess of (70%) of the cost of an  
14 industrial development project wherein the responsible buyer or  
15 tenant is a small business on the date of application; further,  
16 provided that in each such instance the industrial development  
17 agency project percentage shall be removed. Where a contract to  
18 loan to an industrial development agency is to be made under the  
19 provisions of this subsection (a), the following shall apply:  
20 that, in critical economic areas A, B or C where an average of  
21 (4%) or more of the labor force has been unemployed for the  
22 preceding calendar year, the Authority may contract to loan the  
23 industrial development agency an amount not in excess of (40%)  
24 of the cost of an industrial development project wherein the  
25 responsible buyer or tenant is a small business and where an  
26 average of (6%) or more of the labor force has been unemployed  
27 for the preceding calendar year, the Authority may contract to  
28 loan the industrial development agency an amount not in excess  
29 of (50%) of the cost of an industrial development project  
30 wherein the responsible buyer or tenant is a small business and

1 in such latter instance the industrial development agency  
2 project percentage shall be removed.

3 (3) If the industrial development project is any other type  
4 of industrial development project than exclusively a research  
5 and development facility, the Authority may, in critical  
6 economic areas B and C, contract to loan the industrial  
7 development agency an amount not in excess of (30%) of the cost  
8 of such industrial development project if it has determined that  
9 the industrial development agency holds funds or property in an  
10 amount or value equal to not less than (20%) of the cost of  
11 establishing the industrial development project, which funds or  
12 property are available for or shall be applied to the  
13 establishment of such project.

14 (4) Prior to the making of any loan under this subsection  
15 (a), the Authority shall have determined that the industrial  
16 development agency has obtained from other independent and  
17 responsible sources, such as banks and insurance companies or  
18 otherwise, a firm commitment for all other funds, over and above  
19 the loan of the Authority and such funds or property as the  
20 industrial development agency may hold, necessary for payment of  
21 all of the cost of establishing the industrial development  
22 project, and that the sum of all these funds, together with the  
23 machinery and equipment to be provided by the responsible tenant  
24 or responsible buyer, is adequate for the completion and  
25 operation of the industrial development project.

26 (5) If the industrial development project is a biotechnology  
27 enterprise or if it is a small business incubator, the Authority  
28 may contract to loan the industrial development agency an amount  
29 not in excess of (40%) of the cost of such industrial  
30 development project if it has determined that the industrial

1 development agency holds funds or property in an amount or value  
2 equal to not less than (5%) of the cost of establishing the  
3 industrial development project, which funds or property are  
4 available for and shall be applied to establishment of such  
5 project.

6 (6) If the industrial development project is a biotechnology  
7 project and otherwise would not qualify based upon existing and  
8 projected revenues, the Authority may contract to loan the  
9 industrial development agency an amount not in excess of (40%)  
10 of the cost of such industrial development project if it has  
11 determined that the biotechnology enterprise has at least one  
12 million dollars (\$1,000,000) in unencumbered assets and if it  
13 has determined that the industrial development agency holds  
14 funds or property in an amount or value equal to not less than  
15 (5%) of the cost of establishing the industrial development  
16 project, which funds or property are available for and shall be  
17 applied to establishment of such project.

18 \* \* \*

19 Section 5. Section 7(a) of the act, amended July 10, 1963  
20 (P.L.221, No.125), is amended to read:

21 Section 7. Loan Application Requirements.--Prior to the  
22 loaning of any funds to an industrial development agency for an  
23 industrial development project in a critical economic area, the  
24 Authority shall receive from such industrial development agency  
25 a loan application in form adopted by the Authority which shall  
26 contain, without being limited to, the following provisions:

27 (a) A general description of the industrial development  
28 project and a general description of the industrial or  
29 manufacturing enterprise [or], research and development  
30 facility, biotechnology enterprise or small business incubator



1 for which the industrial development project has been or is to  
2 be established;

3 \* \* \*

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