
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1672 Session of
2013

INTRODUCED BY R. MILLER, MILLARD, WATSON, CALTAGIRONE, GINGRICH,
COHEN AND EVERETT, SEPTEMBER 3, 2013

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 6, 2014

AN ACT

1 Providing for the testing of new, environmentally beneficial and
2 energy efficient technologies within various State agencies.

3 The General Assembly of the Commonwealth of Pennsylvania

4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the State Agency
7 Green Technology Implementation Act.

8 Section 2. Legislative intent.

9 The General Assembly finds as follows:

10 (1) It is the responsibility of the General Assembly to
11 ensure that the resources of this Commonwealth are used in a
12 manner consistent with energy efficiency and environmental
13 stewardship.

14 (2) As technology advances, opportunities arise to test
15 new technologies within this Commonwealth's State agencies in
16 order to increase energy conservation, reduce costs and
17 promote demand-side management.

1 (3) Through the testing of new, energy efficient
2 technologies, the Department of General Services will gain
3 the ability to identify new ways to reduce costs and improve
4 efficiency, creating an avenue for implementation of all
5 State agencies upon the recommendation of the Secretary of
6 General Services and the testing agency.

7 Section 3. Definitions.

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

11 "Demand-side management." The management of customer
12 consumption of electricity or the demand for electricity through
13 the implementation of:

14 (1) energy efficiency technologies, management practices
15 or other strategies in residential, commercial, institutional
16 or government customers that reduce electricity consumption
17 by those customers;

18 (2) load management or demand response technologies,
19 management practices or other strategies in residential,
20 commercial, industrial, institutional and government
21 customers that shift electric load from periods of higher
22 demand to periods of lower demand; or

23 (3) industrial by-product technologies consisting of the
24 use of a by-product from an industrial process, including the
25 reuse of energy from exhaust gases or other manufacturing by-
26 products that are used in the direct production of
27 electricity at the facility of a customer.

28 "Department." The Department of General Services of the
29 Commonwealth.

30 "Secretary." The Secretary of General Services of the

1 Commonwealth.

2 "State agency." An executive agency, an independent agency,
3 a State-affiliated entity or a State-related institution as
4 defined by 62 Pa.C.S. § 103 (relating to definitions), including
5 the unified judicial system and its officers and agencies, that
6 for the purposes of this act will be testing a new technology,
7 product or process in order to determine its effectiveness in
8 promoting energy conservation, energy efficiency or demand-side
9 management~~-, WHICH NEW TECHNOLOGY, PRODUCT OR PROCESS CONFORMS~~ <--
10 TO THE HIGH-PERFORMANCE BUILDING STANDARDS ADOPTED BY THE
11 DEPARTMENT OF GENERAL SERVICES UNDER SECTION 307(C) OF THE ACT
12 OF JULY 9, 2008 (1ST SP.SESS., P.L.1873, NO.1), KNOWN AS THE
13 ALTERNATIVE ENERGY INVESTMENT ACT.

14 Section 4. Authority of secretary.

15 The following shall apply:

16 (1) If, in the course of the secretary's official
17 duties, the secretary determines that the use of a certain
18 technology, product or process would promote energy
19 conservation, energy efficiency or demand-side management,
20 the secretary may authorize a State agency to test the
21 technology, product or process by using it in the agency's
22 operations on a trial basis. The following shall apply:

23 (i) The purpose of a test program shall be to
24 validate the effectiveness and feasibility of the
25 technology, product or process in reducing energy usage
26 and costs or promoting demand-side management. No agency
27 shall undertake testing of any technology, product or
28 process unless the business entity manufacturing or
29 marketing the technology, product or process demonstrates
30 that:

1 (A) use of such technology, product or process
2 by the State agency will not adversely affect safety;

3 (B) sufficient research and development has
4 occurred to warrant participation in the test
5 program;

6 (C) the technology, product or process has
7 potential for commercialization not later than two
8 years following the completion of the test program by
9 a State agency under this section; and

10 (D) use of such technology, product or process
11 by the State agency will not adversely affect
12 performance or warranties of any other installed
13 equipment or materials.

14 (ii) If the secretary finds that using the
15 technology, product or process would be feasible in the
16 operations of a State agency and would not have a
17 detrimental effect on the operations, the secretary, with
18 the approval of the Governor, may authorize a State
19 agency to accept delivery of the technology, product or
20 process and to undertake such a test program.

21 (2) The secretary may not authorize a State agency to
22 test a technology, product or process unless the business
23 entity or entities benefiting from the field testing pay all
24 of the associated costs.

25 (3) The secretary may not authorize a State agency to
26 test a technology, product or process unless the business
27 entity benefiting from the field testing assumes all risks of
28 liability associated with testing the technology, product or
29 process and undertakes the responsibility to indemnify the
30 Commonwealth for all claims, including environmental and tort

1 claims.

2 (4) The secretary may not authorize a State agency to
3 test a technology, product or process unless the technology
4 or product being tested has been certified by an approved,
5 independent, nationally recognized testing or certification
6 program that the technology, product or process will produce
7 energy savings at the level it claims and under conditions
8 similar to the test to be conducted. The following shall
9 apply:

10 (i) The business entity manufacturing or marketing
11 the technology, product or process shall provide proof of
12 its independent, nationally recognized testing or
13 certification in a form and manner as determined by the
14 department, and the department shall accept and approve
15 of the testing or certification before testing may take
16 place at a State agency.

17 (ii) Standards for qualifications of an independent
18 third party entity shall be determined by the department.

19 (5) If the secretary determines that the test program
20 sufficiently demonstrates that the technology, product or
21 process reduces energy usage and costs or promotes demand-
22 side management and the testing agency determines that the
23 product meets its independent requirements, if any, for
24 technology, product or process testing and acceptance, the
25 secretary and the administrative head of the testing agency
26 may procure the technology, product or process in accordance
27 with 62 Pa.C.S. (relating to procurement), including through
28 addition of the technology, product or process to a
29 department Statewide requirements contract of proper scope if
30 determined to be appropriate by the secretary. Testing

1 agencies with independent procurement authority under 62
2 Pa.C.S. may procure the item or authorize its use in
3 accordance with that authority. The secretary may encourage
4 implementation in any or all State agencies. Testing
5 criteria, protocol, metrics and goals shall be developed by
6 the department. At a minimum, the testing shall be designed
7 to replicate the results attested to by the approved,
8 independent, nationally recognized testing or certification
9 program.

10 (6) If the secretary determines that the test program
11 does not sufficiently demonstrate that the technology,
12 product or process reduces energy usage and costs or promotes
13 demand-side management, at the secretary's direction, the
14 business entity manufacturing or marketing this technology,
15 product or process shall be responsible for removing the
16 product and returning the agency's facility back to its
17 original status at the cost of the business entity in the
18 time frame provided.

19 Section 5. State agency responsibilities.

20 The following shall apply:

21 (1) The testing agency shall maintain records related to
22 test programs, as required by the secretary and determined by
23 the department.

24 (2) All proprietary information derived from test
25 programs shall be exempt from the provisions of the act of
26 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
27 Law.

28 (3) The testing of a technology, product or process
29 shall have a demonstration period of no less than 30 days and
30 no more than 200 calendar days unless the testing agency

1 determines that the specific technology warrants a longer
2 demonstration period.

3 (4) Testing methodology and results shall not be
4 considered proprietary information.

5 Section 6. Purchasing.

6 Acquisition of any technology, product or process for
7 purposes of the test program established under this act shall
8 not be deemed to be a purchase under the provisions of State
9 procurement law. Upon implementation of a technology, product or
10 process at a State agency after the testing period has expired,
11 the department may make such purchases for implementation as are
12 authorized under 62 Pa.C.S. (relating to procurement). State
13 agencies whose purchasing is not provided for by the department
14 or which exercise independent purchasing authority are
15 authorized to make such purchases as applicable under this act
16 and may further authorize use of the technology, product or
17 process as provided under State law.

18 Section 7. Commonwealth endorsement.

19 Testing of a technology, product or process at a State agency
20 as provided for in this act shall not constitute approval by the
21 Commonwealth or otherwise endorsement of the technology, product
22 or process or of the business entity by the Commonwealth, nor
23 shall the Commonwealth be used in marketing, advertisement or
24 promotional activity related to the technology, product or
25 process or of the business entity. A claim of endorsement by the
26 Commonwealth without the approval of the Secretary and the
27 Governor shall result in the business entity's disqualification
28 from further testing under this act.

29 Section 8. Business entity clarification.

30 For purposes of this act, a business entity that allows the

1 testing of its technology, product or process in a State agency
2 shall not be considered a State advisor or State consultant as
3 defined in the act of July 19, 1957 (P.L.1017, No.451), known as
4 the State Adverse Interest Act.

5 Section 9. Effective date.

6 This act shall take effect in 60 days.