

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2295 Session of  
1984

INTRODUCED BY MANDERINO, RYAN, SWEET, PITTS, PETRARCA,  
MICHLOVIC, CLYMER, COWELL, A. C. FOSTER, JR., PIEVSKY,  
PETERSON, HOFFEL, BOOK, LLOYD, DeVERTER, AFFLERBACH, GRUPPO,  
FREEMAN, GRIECO, ITKIN, GANNON, DOMBROWSKI, D. R. WRIGHT,  
DALEY, STEIGHNER, HALUSKA, FATTAH, COHEN, JOHNSON, CESSAR,  
WAMBACH, GALLAGHER, McHALE, DEAL, RUDY, COY, SALOOM, HAYES,  
TELEK, WARGO, D. W. SNYDER, BELFANTI, SERAFINI, STUBAN,  
GEORGE, WOGAN, WACHOB, DAVIES, FEE, MURPHY, DeLUCA, STAIRS,  
CALTAGIRONE, RYBAK, PISTELLA, KUKOVICH, SHOWERS, PRESTON,  
BALDWIN, CORDISCO, CAPPABIANCA, McCALL, REINARD, BATTISTO,  
RAPPAPORT, OLIVER, SEVENTY, CLARK, DUFFY, MRKONIC, SWEET,  
GAMBLE, RICHARDSON, MAYERNIK, STEWART, IRVIS, KASUNIC AND  
PRATT, JUNE 13, 1984

REFERRED TO COMMITTEE ON APPROPRIATIONS, JUNE 13, 1984

AN ACT

1 Providing technical and financial assistance to employee-  
2 ownership groups that seek to retain or preserve jobs by  
3 restructuring an existing business into an employee-owned  
4 enterprise with a substantial prospect of future recovery;  
5 providing technical assistance on employee-ownership to  
6 existing firms and current employee-owned enterprises in  
7 Pennsylvania; and making appropriations.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Employee-  
12 Ownership Assistance Program.

13 Section 2. Definitions.

14 The following words and phrases when used in this act shall  
15 have the meanings given to them in this section unless the

context clearly indicates otherwise:

"Department." The Department of Commerce.

"Employee-owned enterprise." A business which either:

(1) is organized as a worker cooperative, within the meaning of Subchapter T of the Internal Revenue Code of 1954, as amended;

(2) in which the employees own the stock of the corporation through an Employee Stock Ownership Plan, within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1954, as amended; or

(3) involves a substantial share of employee participation, as determined by the secretary.

"Employee-ownership group." A corporation or other entity, including labor union, formed by or on behalf of the current or former employees of an industrial or commercial firm or facility located in this Commonwealth for the purpose of operating it as an employee-owned enterprise.

"Local administrative agency." An organization which enters into a written agreement with the department to administer technical and financial assistance pursuant to this act, including a municipality, a county, a local development district of the Appalachian Regional Commission, an industrial development corporation organized and existing under the act of May 17, 1956 (P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act, or any other nonprofit economic development organization designated by the secretary.

"Secretary." The Secretary of Commerce.

### Section 3. Employee Ownership Program.

The department will establish a technical and financial assistance program to promote the development of employee-owned

1 enterprises.

2 Section 4. Technical assistance.

3 (a) Authorization to advance funds.--The department is  
4 authorized to advance funds to local administrative agencies for  
5 the purpose of providing loans to employee-ownership groups in  
6 industrial and commercial enterprises as defined in section 3 of  
7 the act of August 23, 1967 (P.L.251, No.102), known as the  
8 Industrial and Commercial Development Authority Law, for  
9 technical assistance to develop or improve an employee-owned  
10 enterprise.

11 (b) Eligibility.--Employee-ownership groups shall be  
12 eligible for assistance if the employees in the employee-  
13 ownership group are employed by, formerly employed by or  
14 affiliated with one of the following:

15 (1) Existing firms facing a threat of substantial  
16 layoffs or a plant closing and investigating a reorganization  
17 of all or some portion of the firm's business activity, at  
18 sites located within this Commonwealth, as an employee-owned  
19 enterprise. For purposes of this section "existing firm"  
20 shall include an ongoing concern, the assets of an existing  
21 company or the assets of a company which has been closed for  
22 no more than one year as of the date of application for the  
23 feasibility study loan.

24 (2) Existing firms, not necessarily facing a threat of  
25 substantial layoffs or a plant closing, but considering a  
26 conversion to an employee-owned enterprise and seeking  
27 professional services to accomplish this, if conversion to  
28 employee ownership will create new jobs or retain existing  
29 jobs at sites within this Commonwealth.

30 (3) Existing firms which currently have some form of

1 employee ownership and require professional services to  
2 insure success of the employee-owned enterprise in its effort  
3 to create new jobs or retain existing jobs at sites within  
4 this Commonwealth.

5 (c) Uses.--Loans will be made to employee-ownership groups  
6 for the following purposes:

7 (1) Feasibility studies to investigate a reorganization  
8 or new incorporation as an employee-owned enterprise. At a  
9 minimum, the feasibility study should:

10 (i) Assess the market value and demand for the  
11 product produced by the plant affected by the closing or  
12 layoff.

13 (ii) Assess the market value and demand for other  
14 products which could be manufactured or assembled at the  
15 plant affected by the closing or layoff.

16 (iii) Evaluate the production costs incurred if the  
17 plant were to be operated by the employee-ownership  
18 group.

19 (iv) Determine whether there exists in the affected  
20 area and in the employee-ownership group, the desire and  
21 capacity to create a new production entity and to become  
22 competitive.

23 (2) Professional services to implement a feasibility  
24 study and other professional services to develop or insure  
25 the success of an employee-owned enterprise.

26 (d) Repayment.--Loans provided for feasibility studies and  
27 other professional services to employee-ownership groups to  
28 investigate a conversion to an employee-owned enterprise are  
29 subject to the following repayment conditions:

30 (1) If the enterprise studied is purchased by the

1 employee group, the employee group shall repay the entire  
2 amount of the loan, with interest, in a lump sum at the  
3 closing of the purchase of the company or within one year  
4 after the date of the release of the loan by the department,  
5 whichever occurs later.

6 (2) If the enterprise studied is not purchased by the  
7 employee group within one year after the completion of the  
8 feasibility study, the applicant shall submit a final report  
9 concerning the feasibility of repaying the loan.

10 (e) Other conditions.--

11 (1) The applicant shall provide evidence that there is a  
12 prospect for recovery and future job growth or job retention  
13 in applications under section 4(b)(1) or a substantial  
14 prospect of job growth or job retention in applications under  
15 section 4(b)(2) and (3).

16 (2) Maximum State participation is 50% of the total cost  
17 of the technical assistance and the maximum loan size is  
18 \$100,000.

19 (3) The department may develop additional rules,  
20 procedures, forms and guidelines to implement the technical  
21 assistance program, including, but not limited to, provisions  
22 for the terms, conditions and evaluation criteria for the  
23 loans.

#### 24 Section 5. Financial assistance.

25 (a) Authorization to advance funds.--The department is  
26 authorized to advance funds to local administrative agencies for  
27 the purpose of providing loans and loan guarantees to  
28 industrial, manufacturing and agricultural enterprises as  
29 defined in section 3 of the act of May 17, 1956 (1955 P.L.1609,  
30 No.537), known as the Pennsylvania Industrial Development

1 Authority Act, for the development of employee-owned  
2 enterprises.

3 (b) Eligibility.--Eligibility for this assistance shall be  
4 limited to employee-ownership groups reorganizing an existing  
5 enterprise which is facing a threat of substantial layoffs or a  
6 plant closing, where adequate private financing is not  
7 available. For purposes of this subsection "existing enterprise"  
8 shall include an ongoing concern, the assets of an existing  
9 company or the assets of a company which has been closed for no  
10 more than one year as of the date of completion of a feasibility  
11 study.

12 (c) Uses.--Eligible project costs shall include land and  
13 buildings, machinery and equipment and working capital secured  
14 by accounts receivable and inventory.

15 (d) Debt instruments.--The financial subsidy provided should  
16 be the minimum necessary to accommodate the borrower's financial  
17 needs. Debt instruments shall include either or both of the  
18 following:

19 (1) Loans, including deferred interest and principal  
20 payments.

21 (2) Loan guarantees.

22 (e) Security.--Funds loaned shall be secured by lien  
23 positions on collateral at the highest level of priority which  
24 can accommodate the borrower's ability to raise sufficient debt  
25 and equity capital. When the obligation of a firm is guaranteed,  
26 the financial institution holding the obligation shall be  
27 required to secure the obligation.

28 (f) Loan limits.--The maximum loan or guarantee is  
29 \$1,500,000 per firm. Loan funds shall not exceed 25% of the  
30 total project costs and guarantees shall not exceed 25% of the

1 total loan value. The term of the loan shall be the shortest  
2 consistent with the needs of the firm, but no longer than 20  
3 years. The interest rate on loans will be at or above the  
4 interest rate on the bonds issued to fund this act.

5 (g) Equity requirement.--A significant equity investment by  
6 the employee-ownership group equal to at least 10% of the  
7 project cost and including substantial participation by at least  
8 two-thirds of the employees is required to qualify for the loan  
9 or guarantee.

10 (h) Feasibility study.--Assistance shall not be approved  
11 without a feasibility study demonstrating a substantial prospect  
12 for job retention or future job growth and a business plan  
13 including steps to facilitate labor-management cooperation.  
14 General adherence to the plan is required to receive funding.

15 Section 6. Criteria for evaluating applications.

16 The department shall evaluate the applications based on the  
17 following criteria:

18 (1) Number of jobs retained or created in relation to  
19 the size of the loan. The loan shall not exceed a cost of  
20 \$15,000 per job created or retained.

21 (2) Ability of the applicant to repay the loan and the  
22 likelihood of retaining or creating jobs.

23 (3) Evidence of other private financial commitments.

24 (4) Evidence that, without the financial assistance,  
25 other Federal, State or local public and private investment  
26 would be insufficient to finance the employee-owned  
27 enterprise.

28 (5) The extent to which a firm employs a significant  
29 number of employees or represents a significant portion of  
30 employment in the community.

1           (6) Any additional criteria specified by the department  
2       in guidelines.

3   Section 7. Rules, procedures, forms and guidelines.

4       The department shall establish additional rules, procedures,  
5   forms and guidelines to implement the financial assistance  
6   programs, including provisions for repayment and reporting  
7   requirements.

8   Section 8. Administration of the program.

9       (a) Responsibility of local administrative agencies.--Local  
10   administrative agencies will be responsible for promoting the  
11   program, soliciting applications, evaluating applications and  
12   making preliminary decisions on both technical assistance and  
13   financial assistance. Up to 2% of the funds appropriated for the  
14   purpose of this act may be used by local administrative agencies  
15   for the purpose of administering this program.

16       (b) Approval by secretary.--The secretary will have full  
17   responsibility for final approval of all applications for  
18   assistance.

19       (c) Advances.--The department may make advances to local  
20   administrative agencies for the purpose of making loans or loan  
21   guarantees consistent with this act.

22       (d) Rules and regulations.--The secretary may adopt any  
23   rules and regulations, statements of policy or other procedures,  
24   forms and requirements necessary for the implementation of this  
25   act.

26   Section 9. Indicators of program impact.

27       On March 1 of each year of the program's existence, the  
28   secretary shall submit a report to the Chief Clerk of the House  
29   of Representatives and the Secretary of the Senate on the impact  
30   of the program, including the rules, guidelines or statements of



1 policy used in administering this program, the number of  
2 employee-ownership groups and firms receiving assistance, the  
3 number of feasibility studies which were actually implemented  
4 and the number of jobs retained or created and the number of  
5 jobs created or retained as a result of financial assistance.  
6 All recipients of funds under this program shall provide the  
7 department with any or all information needed to fulfill this  
8 requirement. The secretary shall provide copies of all official  
9 policies, guidelines or rules regarding the program to the Chief  
10 Clerk of the House of Representatives and to the Secretary of  
11 the Senate.

12 Section 10. Appropriations.

13 The following appropriations are made:

14 (1) The sum of \$1,000,000 is hereby appropriated from  
15 the Pennsylvania Economic Revitalization Fund to the  
16 department for the fiscal year 1984 to 1985, for the purposes  
17 of section 4.

18 (2) The sum of \$4,000,000 is hereby appropriated from  
19 the Pennsylvania Economic Revitalization Fund to the  
20 department for the fiscal year 1984 to 1985, for the purposes  
21 of section 5.

22 Section 11. Final date for approvals.

23 No financial assistance under sections 4 and 5 shall be  
24 approved after June 30, 1987.

25 Section 12. Effective date.

26 This act shall take effect immediately.