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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**  
**No. 1433** Session of  
1984

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FISHER, HANKINS, HELFRICK, HESS AND HAGER, JUNE 15, 1984

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AS REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF  
REPRESENTATIVES, AS AMENDED, JUNE 26, 1984

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AN ACT

1 Establishing a business infrastructure development program for  
2 making grants and loans for infrastructure necessary to  
3 complement industrial or commercial investment by private  
4 companies; prescribing requirements of and conditions for  
5 grants and loans; and making an appropriation.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Business  
10 Infrastructure Development Act.

11 Section 2. Definitions.

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

15 "Department." The Department of Commerce.

16 "Infrastructure improvements." The construction,

1 rehabilitation or repair of drainage systems; energy facilities  
2 (power generation and distribution); fire safety facilities  
3 (excluding vehicles); sewer systems (pipe, treatment);  
4 transportation directly affecting the site of the proposed  
5 private investment, including roads, sidewalks, bridges, rail,  
6 port, river, airport or pipeline (excluding vehicles); waste  
7 disposal; and water supply (storage, treatment and  
8 distribution).

9 "Local sponsor." Any municipality, any industrial and  
10 commercial authority organized pursuant to, or industrial  
11 development company as certified by the department pursuant to  
12 the act of August 23, 1967 (P.L.251, No.102), known as the  
13 Industrial and Commercial Development Authority Law; any council  
14 of government organization or any multimunicipal agency  
15 organization created pursuant to the act of July 12, 1972  
16 (P.L.762, No.180), referred to as the Intergovernmental  
17 Cooperation Law; any municipal authority organization pursuant  
18 to the act of May 2, 1945 (P.L.382, No.164), known as the  
19 Municipality Authorities Act of 1945; any redevelopment  
20 authority organized pursuant to the act of May 24, 1945  
21 (P.L.991, No.385), known as the Urban Redevelopment Law; and any  
22 local development district of the Appalachian Regional  
23 Commission.

24 "Municipality." Any county, city, borough, incorporated  
25 town, township or home rule municipality.

26 "Private company." Any agricultural, industrial,  
27 manufacturing or research and development enterprise or  
28 enterprises, as defined in section 3 of the act of May 17, 1956  
29 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial  
30 Development Authority Act.

1 "Private match." Any new private investment by the private  
2 company in land, buildings and depreciable fixed assets and  
3 infrastructure improvements at the project site of the  
4 infrastructure improvements funded under this act.

5 "Publicly owned property." Property which is accessible to  
6 the general public and is not under the control of a private  
7 firm.

8 "Secretary." The Secretary of Commerce.

9 "Small community." A municipality with a population of  
10 50,000 or less.

#### 11 Section 3. Establishment of program.

12 There is hereby established, under the direction of the  
13 department, a program to be known as the Business Infrastructure  
14 Development Program for the purpose of making grants or loans to  
15 local sponsors in order to install specific infrastructure  
16 improvements necessary to complement industrial investment by  
17 private companies which increase Pennsylvania's share of  
18 domestic and international commerce and create net new jobs.

#### 19 Section 4. Grant and loan procedure.

20 (a) Private company commitments.--An application for a grant  
21 or loan shall be initiated by a private company which shall  
22 submit a letter of intent or signed contractual agreement to  
23 locate, expand or build a facility to a local sponsor whose  
24 jurisdiction includes, at least in part, the site of the  
25 facility. The letter of intent shall include:

- 26 (1) A commitment that the proposed facility will create  
27 a minimum of ten net new full-time equivalent jobs, will  
28 create at least a 4% increase in full-time equivalent jobs in  
29 the case of expansion of an enterprise already located at the  
30 site, or at least a 25% increase in full-time equivalent jobs

1 pursuant to section 7(h) and will create at least one net new  
2 full-time equivalent job for every \$15,000 either loaned or  
3 granted for the project.

4 (2) A statement of intention to operate the facility for  
5 a minimum of five years.

6 (3) A statement that the specific infrastructure  
7 improvements are necessary for the efficient and cost-  
8 effective operation of the proposed business or industry,  
9 together with supporting financial and engineering  
10 documentation.

11 (4) A notarized statement of willingness to grant the  
12 local sponsor a lien on the facility for which the  
13 infrastructure is being provided, up to the amount of the  
14 cost of the loan, including principal and interest due and  
15 owing to the date of foreclosure and any penalty imposed by  
16 the secretary, required to provide the infrastructure, which  
17 lien may be foreclosed in the event that the private company  
18 fails to operate in the facility for at least five years.

19 (b) Application to the department.--Upon receipt of the  
20 request for assistance from a private company, the local sponsor  
21 may apply to the department for a loan or grant. The application  
22 from the local sponsor shall include, but not be limited to:

23 (1) A statement of the purpose of the proposed loan or  
24 grant, including a list of eligible items and the cost of  
25 each.

26 (2) A statement showing the sources of funding for the  
27 entire project, including the private company's investment in  
28 the project and any public and other private sources of  
29 funding.

30 (3) A contractual agreement or signed letter of intent

1 from a private firm, as specified in this section.

2 (4) Evidence that there will be a private match in the  
3 following amounts:

4 (i) At least \$2 for every \$1 of State assistance, if  
5 the assistance requested is \$500,000 or less.

6 (ii) At least \$3 for every \$1 of State assistance,  
7 if the assistance requested is greater than \$500,000 but  
8 not greater than \$1,000,000.

9 (iii) At least \$4 for every \$1 of State assistance  
10 if the assistance requested is greater than \$1,000,000  
11 but not greater than \$1,500,000.

12 (5) Demonstration that the private firm is financially  
13 sound and is likely to fulfill the commitments made in its  
14 letter of intent.

15 (6) A proposed timetable for the provision of the  
16 infrastructure improvements.

17 (7) Evidence that the project will be expeditiously  
18 carried out and completed as planned.

19 (8) A demonstration that insufficient local capital  
20 improvement funds at reasonable rates and terms are available  
21 within the necessary time to provide the needed  
22 infrastructure improvement on public property. This includes  
23 local funds available through issuance of bonds or other  
24 means, State funds available through existing programs and  
25 available Federal program funds such as community development  
26 block grant funds, urban development action grant funds and  
27 economic development administration funds.

28 (9) A demonstration that insufficient private funds are  
29 available at reasonable rates and terms within the necessary  
30 time to fund infrastructure improvements on property owned by

1 the private company.

2 (10) Evidence of consistency with local and areawide  
3 economic development plans where such exist.

4 (c) Grant and loan evaluation.--The department shall  
5 consider grant and loan applications based on the following  
6 criteria:

7 (1) The number of net new full-time equivalent jobs that  
8 will be provided and the amount of additional State and local  
9 tax revenue that will be directly generated by the private  
10 company's new or expanded industrial or commercial  
11 investment.

12 (2) The degree of economic distress in the jurisdiction  
13 of the local sponsor and, when appropriate, the surrounding  
14 area, as measured by rates of unemployment, income levels and  
15 other criteria as the department shall establish by rules or  
16 guidelines.

17 (3) The ability to repay the interest and principal, in  
18 the case of a loan.

19 (4) The increase in the manufacturing base of the  
20 Commonwealth.

## 21 Section 5. Loan repayment.

22 The department shall establish such guidelines, rules and  
23 regulations for the repayment of funds loaned pursuant to this  
24 act as may be necessary. These provisions shall include, but not  
25 be limited to, the following:

26 (1) Funds may be lent for a maximum of ten years or the  
27 estimated useful life of the property, as established by the  
28 United States Department of Treasury, whichever is greater.

29 (2) The rate of interest charged by the department for  
30 infrastructure not on publicly owned property shall be no

1 less than the ~~average~~ interest rate on the bonds sold <—  
2 pursuant to the act of 1984 (P.L. , No. ),  
3 known as the Pennsylvania Economic Revitalization Act.

4 (3) For all infrastructure improvements funded through  
5 this act which occur on publicly owned property, repayment of  
6 funds loaned will involve only the principal amount loaned  
7 and no interest will be charged against the funds made  
8 available.

9 (4) No loan shall exceed \$1,500,000.

10 Section 6. Grants.

11 Grants for infrastructure on publicly owned property  
12 necessary to complete eligible projects, consistent with the  
13 criteria set forth in this act, shall be permitted only in  
14 Enterprise Development Areas designated as such by the Secretary  
15 of the Department of Community Affairs, or in those  
16 municipalities which are experiencing three or more of the  
17 following problems:

18 (1) Twenty percent or more of the population with  
19 incomes below the poverty level as reported in the latest  
20 decennial census.

21 (2) Fifteen percent or more of the labor force is  
22 unemployed as reported in the census of 1980 or as reported  
23 in a survey done by the municipality.

24 (3) Five percent or more loss of population between 1970  
25 and 1980 as reported by the Bureau of the Census of the  
26 United States Department of Commerce.

27 (4) Significant business vacancy rate within the area,  
28 either in gross footage or acreage or in the number of  
29 business or industrial buildings.

30 (5) Significant reduction in employment since 1977.

1 Section 7. Special provisions.

2 (a) Limit on grants and loans to particular  
3 municipalities.--No more than 10% of funds appropriated pursuant  
4 to this act shall be loaned or granted to local sponsors in a  
5 particular municipality.

6 (b) Limit on grants for infrastructure on publicly owned  
7 property.--In no case shall more than 10% of the funds  
8 appropriated in any State fiscal year pursuant to this act be  
9 utilized as specified in section 6, nor shall any municipality  
10 receive more than one grant in any single fiscal year.

11 (c) Minimum allocation to small communities.--A minimum of  
12 25% of the grants and loans issued pursuant to this act shall be  
13 allocated to small communities.

14 (d) Evidence of eligibility.--No loan or grant shall be made  
15 without substantiation of the provisions of section 4.

16 (e) Liens.--Funds loaned will be secured by lien positions  
17 on collateral at the highest level of priority the department  
18 determines feasible to accommodate the project, consistent with  
19 section 4(a)(4).

20 (f) Penalty.--Private companies which fail to create the  
21 number of jobs specified in an approved application shall be  
22 liable for a penalty equal to an increase in the interest  
23 charged to 2% greater than the current prime interest rate for  
24 the remainder of the loan, unless the penalty is waived by the  
25 secretary because the failure is due to circumstances outside  
26 the control of the private company. The penalty shall be payable  
27 in installments which the secretary deems appropriate. Immediate  
28 notice of penalties and waivers of penalties, including the  
29 penalties in section 4(a)(4), with the reasons thereof, shall be  
30 submitted by the secretary to the Chief Clerk of the House of



1 Representatives and to the Secretary of the Senate, along with  
2 the secretary's decision on the imposition of penalties and the  
3 reasons for this decision.

4 (g) Withholding of liquid fuel tax allocation.--

5 Municipalities receiving interest free loans which fail to meet  
6 their repayment obligations shall have all or part of their  
7 liquid fuel tax allocation withheld or other penalties, as the  
8 department may prescribe. The secretary shall immediately give  
9 the name of the municipality and the reasons for, and amount of,  
10 the penalty to both the Chief Clerk of the House of  
11 Representatives and the Secretary of the Senate.

12 (h) Relocation; job increase.--This act is expressly not  
13 intended to encourage the relocation of a company from one  
14 jurisdiction within the Commonwealth to another. Any request by  
15 a local sponsor for assistance to be provided a firm which  
16 currently operates a similar business in the Commonwealth must  
17 be accompanied by a demonstration that the total net increase in  
18 full-time equivalent jobs, using the current number of jobs in  
19 all similar businesses operated by the private company in the  
20 Commonwealth as a base, shall be at least 10%. This requirement  
21 shall not apply to private companies relocating from small  
22 business incubators.

23 ~~(i) Grant limit. No grant shall exceed \$500,000.~~

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24 Section 8. Additional powers and duties of the department.

25 (a) Rules and forms.--The department may prescribe such  
26 application forms and promulgate such guidelines, rules and  
27 regulations as may be necessary to carry out the provisions of  
28 this act with respect to loan and grant conditions and criteria  
29 for evaluation of the economic benefit of proposed loans and  
30 grants and for determining and evaluating compliance with all

1 the criteria established in this act. Guidelines and changes to  
2 guidelines shall be provided to the Chief Clerk of the House of  
3 Representatives and the Secretary of the Senate when they become  
4 effective.

5 (b) Reporting.--On or before the March 1 following the  
6 adoption of this act and in each succeeding year in which loans  
7 are outstanding, the department shall provide a report to the  
8 Chief Clerk of the House of Representatives and the Secretary of  
9 the Senate for the preceding calendar year. The report shall  
10 contain, at a minimum, the following information:

11 (1) A list of the approved projects including local  
12 sponsor, name of private company, cost of project, amount of  
13 private investment, projected number of new jobs, location of  
14 project, date of submission of the application by the local  
15 sponsor, type of project and estimated completion date of  
16 project.

17 (2) A list of applications not approved.

18 (3) A list of pending applications.

19 (4) A list of projects where job projections are not  
20 being met or the project is not being completed and the  
21 penalty being applied or the reason a penalty is not being  
22 applied.

23 (5) Estimates of State and local tax revenue increases  
24 caused directly by project.

25 (6) A list of projects approved or completed in years  
26 prior to the preceding year.

27 (7) In addition to the data reporting required above,  
28 the department shall accumulate from the sponsors of approved  
29 projects the following data on an annual and cumulative  
30 basis:

1           (i) The number of jobs actually created by these  
2       projects.

3           (ii) Estimated increased tax revenue caused by the  
4       projects.

5       (8) Guidelines issued for this program.

6       (9) An overall statement of the progress of the program  
7       during the preceding year, along with recommendations for  
8       improvements.

9   SECTION 9. GUIDELINES AND REGULATIONS. <—

10       (A) ONE-YEAR EXEMPTION FROM REVIEW.--IN ORDER TO FACILITATE  
11   THE SPEEDY IMPLEMENTATION OF THIS PROGRAM, THE DEPARTMENT SHALL  
12   HAVE THE POWER AND AUTHORITY TO PROMULGATE, ADOPT AND USE  
13   GUIDELINES WHICH SHALL BE PUBLISHED IN THE PENNSYLVANIA  
14   BULLETIN. THE GUIDELINES SHALL NOT BE SUBJECT TO REVIEW PURSUANT  
15   TO SECTION 205 OF THE ACT OF JULY 31, 1968 (P.L.769, NO.240),  
16   REFERRED TO AS THE COMMONWEALTH DOCUMENTS LAW, SECTIONS 204(B)  
17   AND 301(10) OF THE ACT OF OCTOBER 15, 1980 (P.L.950, NO.164),  
18   KNOWN AS THE COMMONWEALTH ATTORNEYS ACT, OR THE ACT OF JUNE 25,  
19   1982 (P.L.633, NO.181), KNOWN AS THE REGULATORY REVIEW ACT, AND,  
20   EXCEPT AS PROVIDED IN SUBSECTION (C), SHALL BE EFFECTIVE FOR A  
21   PERIOD NOT TO EXCEED ONE YEAR FROM THE EFFECTIVE DATE OF THIS  
22   ACT.

23       (B) EXPIRATION OF EXEMPTION.--EXCEPT AS PROVIDED IN  
24   SUBSECTION (C), AFTER THE EXPIRATION OF THE ONE-YEAR PERIOD, ALL  
25   GUIDELINES SHALL EXPIRE AND SHALL BE REPLACED BY REGULATIONS  
26   WHICH SHALL HAVE BEEN PROMULGATED, ADOPTED AND PUBLISHED AS  
27   PROVIDED BY LAW.

28       (C) EXCEPTION.--THE GENERAL ASSEMBLY MAY PROVIDE FOR AN  
29   EXTENSION OF THE GUIDELINES ADOPTED PURSUANT TO SUBSECTION (A),  
30   IF THE LEADERSHIP COMMITTEE CREATED PURSUANT TO SECTIONS 3 AND 4

1 OF THE ACT OF DECEMBER 22, 1981 (P.L.508, NO.142), KNOWN AS THE  
2 SUNSET ACT, EXTENDS THE GUIDELINES ADOPTED PURSUANT TO  
3 SUBSECTION (A).

4 Section ~~9~~ 10. Nondiscrimination. <—

5 No grant, loan or loan guarantee shall be made to a recipient  
6 under this act unless the recipient certifies to the department,  
7 in a form satisfactory to the department, that it shall not  
8 discriminate against any employee or against any applicant for  
9 employment because of race, religion, color, national origin,  
10 sex or age.

11 Section ~~10~~ 11. Appropriation. <—

12 The sum of \$16,000,000, or as much thereof as may be  
13 necessary, is hereby appropriated from the Pennsylvania Economic  
14 Revitalization Fund to the department for the fiscal year July  
15 1, 1984 to June 30, 1985, for grants and loans as specified in  
16 this act.

17 Section ~~11~~ 12. Termination. <—

18 No ~~funds may be expended~~ assistance shall be approved <—  
19 pursuant to this act after June 30, 1987.

20 Section ~~12~~ 13. Effective date. <—

21 This act shall take effect immediately.