

THE GENERAL ASSEMBLY OF PENNSYLVANIA

# HOUSE BILL

## No. 1832

Session of  
1985

INTRODUCED BY SWEET, MANDERINO, McVERRY, D. R. WRIGHT,  
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JOHNSON, CARN, FOX, GEIST AND PISTELLA, OCTOBER 23, 1985

REFERRED TO COMMITTEE ON APPROPRIATIONS, OCTOBER 23, 1985

AN ACT

1 Providing for tax-exempt bonds; and imposing powers and duties  
2 on the Secretary of Commerce.

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 Tax-Exempt  
7 Bond Allocation Act.

8 Section 2. Purpose.

9 A tax-exempt bond allocation formula is established in  
10 response to restrictions imposed by amendments to the Internal  
11 Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 1 et seq.).  
12 Because of the limits on the amounts of tax-exempt bond funding  
13 available, this act is intended to use the restricted funding  
14 available in order to:

15 (1) Create career-oriented net new jobs at an income  
16 level high enough to support an individual and the  
17 individual's dependents.

(2) Increase and diversify the manufacturing base of this Commonwealth.

(3) Aid in the expansion of existing private companies, particularly those which sell their products outside this Commonwealth.

(4) Attract new industries with new products into distressed areas within this Commonwealth.

### Section 3. Definitions.

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

"Exempt facilities." Projects which are determined by the Federal Government not to be subject to small-issue project limitations. Examples may be pollution control facilities, airports and waste-disposal sites.

"Net new job." A full-time job, or its equivalent, which increases the number of jobs at the project site above the number of jobs present before the project is started. The term does not include a job which:

(1) Is being relocated from within this Commonwealth.

(2) Is created by the construction of the project.

(3) Is not designed to be permanent.

"Project." An activity for which tax-exempt bonds may be used.

"Secretary." The Secretary of Commerce of the Commonwealth.

"Tax-exempt bonds." Private activity and other bonds and financings which count against the State ceiling defined in the Internal Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 1 et seq.).

### Section 4. Selection of projects.

1 (a) Projects using county allocations.--

2 (1) Except under paragraph (2), the secretary shall not  
3 approve bond projects under the act of August 23, 1967  
4 (P.L.251, No.102), known as the Industrial and Commercial  
5 Development Authority Law, for:

6 (i) Projects related to the retail sale of consumer  
7 goods.

8 (ii) Office buildings in which 75% or less of the  
9 square footage has guaranteed occupancy. This  
10 subparagraph does not apply to office buildings used to  
11 house regional or national corporate headquarters.

12 (iii) Office buildings whose primary tenants will be  
13 doctors, lawyers, accountants or other professionals whom  
14 the secretary designates in regulations promulgated under  
15 section 6(4).

16 (iv) Projects which will not generate at least one  
17 net new job for every \$50,000 of bond authority.

18 (v) Projects which require over \$5,000,000 in tax-  
19 exempt bonds.

20 (vi) Projects whose beneficiary has outstanding tax-  
21 exempt bond indebtedness for a project which was  
22 initiated after January 1, 1984, and which does not meet  
23 job projections within two years following its  
24 completion.

25 (vii) Projects at nuclear power facilities.

26 (2) The secretary may waive the exclusions in paragraph  
27 (1)(i) through (v) for reasons specified by the secretary in  
28 the semiannual report under section 6(3). The secretary shall  
29 make the waiver under this paragraph for projects located  
30 within enterprise development areas, as certified by the

Secretary of Community Affairs under 16 Pa.Code Ch. 23

(relating to enterprise development area initiative).

(b) Projects set aside by secretary.--To fund projects that do not use county allocations and to fund projects under section 5(a)(2)(ii) and (iii), (b)(1)(ii), and (c), the secretary shall use the following criteria:

(1) Size of the project, particularly as it compares to the individual county's allocation.

(2) Number of net new jobs created.

(3) Economic distress of the area, determined by its unemployment rate and its median income.

(4) Amount of private funds leveraged by the tax-exempt bond funding.

(5) Coordination with economic development plans of the Commonwealth and of municipalities and regions.

#### Section 5. Allocation.

(a) Initial allocation.--By December 1 of each year, the secretary shall allocate the tax-exempt bond authority for the following calendar year according to the following:

(1) Seventy percent shall be allocated for use inside the borders of each county in this Commonwealth. If the local authority resides outside of the county which contains the project site, no project shall be approved without written approval of the highest elected officials in that county. The following is the allocation formula:

(i) The secretary shall determine the ratio of tax-exempt bond usage of the county to the tax-exempt bond usage of all counties for the two most recently completed calendar years, excluding projects for which the tax-exempt financing exceeds \$5,000,000.

1           (ii) The secretary shall determine the ratio of the  
2           average number of unemployed individuals in the county to  
3           the average number of unemployed individuals in all  
4           counties for the most recent 12 months for which revised  
5           unemployment statistics are available.

6           (iii) The secretary shall multiply the ratio  
7           determined in subparagraph (ii) by two.

8           (iv) The secretary shall add the ratio determined in  
9           subparagraph (i) to the product determined in  
10          subparagraph (iii).

11          (v) The secretary shall divide the sum determined in  
12          subparagraph (iv) by three.

13          (vi) The secretary shall multiply the quotient  
14          determined in subparagraph (v) by the total amount  
15          available to be allocated under this paragraph.

16          (2) Thirty percent shall be set aside by the secretary  
17          for the following purposes:

18           (i) Use by Commonwealth agencies, except for the  
19           Pennsylvania Higher Education Assistance Agency, which  
20           require the use of tax-exempt bonds.

21           (ii) Projects which require more than \$5,000,000 in  
22           bond authority and which are determined by the secretary  
23           to be exceptional in furthering the purposes of this act.

24           (iii) Exempt facilities projects.

25           (iv) Use by the Pennsylvania Higher Education  
26           Assistance Agency. The agency shall, on or before  
27           February 1 of each year, provide the secretary with a  
28           report justifying requests for bond authority in that  
29           year. The secretary has the sole authority to determine  
30           the amount of the request which may actually be used by

1 the agency.

2 (b) Reallocation.--

3 (1) On July 1 of each year, the secretary shall allocate  
4 unused tax-exempt bond authority as follows:

5 (i) Eighty percent shall be allocated on the basis  
6 of the following formula:

7 (A) The secretary shall determine the ratio of  
8 tax-exempt bond usage of the county to the tax-exempt  
9 bond usage of all counties for the two most recently  
10 completed calendar years, excluding projects for  
11 which the tax-exempt financing exceeds \$5,000,000.

12 (B) The secretary shall multiply the ratio  
13 determined in clause (A) by the total amount  
14 available to be allocated under this subparagraph.

15 (ii) Twenty percent shall be retained by the  
16 secretary for a contingency reserve, which the secretary  
17 may use for projects under subsection (a)(2).

18 (2) As used in this subsection the term "unused tax-  
19 exempt bond authority" means the total tax-exempt bond  
20 allocation for the Commonwealth, minus the amount allocated  
21 to approved projects under subsection (a).

22 (c) Final allocation.--On November 1 of each year, the  
23 secretary shall allocate unused bond authority at the discretion  
24 of the secretary. Projects shall be evaluated according to the  
25 purposes set forth in section 2.

26 Section 6. Powers and duties of secretary.

27 The secretary has the following powers and duties:

28 (1) Distribute to local authorities model guidelines for  
29 the local authorities to use in carrying out the priorities  
30 and other provisions of this act.

1           (2) Notify affected Commonwealth agencies and  
2 authorities of their bond allocations within 15 days of  
3 deadlines under section 5.

4           (3) Submit reports to the Chief Clerk of the House of  
5 Representatives and the Secretary of the Senate within 45  
6 days of January 1 and within 45 days of July 1 of each year.  
7 Reports shall include:

8               (i) A list of projects approved and disapproved. The  
9 list shall contain, for each request:

10                   (A) Amount.

11                   (B) Location.

12                   (C) Estimated jobs.

13                   (D) Issuing authority or Commonwealth agency.

14                   (E) Section of this act under which bond  
15 authority was given.

16               (ii) The most recent report submitted to the  
17 secretary by the Pennsylvania Higher Education Assistance  
18 Agency under section 5(a)(2)(iv), the reasons for  
19 approval or disapproval of the request and a cash flow  
20 projection of all bonds issued by the agency.

21               (iii) The model guidelines under paragraph (1).

22               (iv) Other information which the secretary deems  
23 pertinent, including suggested changes to the program.

24           (4) Promulgate regulations to carry out the purposes set  
25 forth in section 2.

26 Section 7. Effective date.

27       (a) Initial allocation.--Section 5(a) shall take effect  
28 November 30, 1985, or immediately, whichever is later.

29       (b) Notice.--Section 6(2) shall take effect December 1,  
30 1985, or immediately, whichever is later.

1       (c) Remainder.--The remainder of this act shall take effect  
2   January 1, 1986, or immediately, whichever is later.