

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2438 Session of
1986

INTRODUCED BY ARGALL, HAYES, D. R. WRIGHT, BOWSER, BOYES, COLE, MERRY, ROBBINS, LIVENGOD, WASS, SERAFINI, BURD, SIRIANNI, BIRMELIN, STEVENS, STEWART, HASAY, VEON, HERMAN, MOEHLMANN, COLAFELLA, CIMINI, LESCOVITZ, BUSH, FARGO, McCALL, FISCHER, DeVERTER, CAWLEY, STEIGHNER, CLARK, ARTY, BELARDI, STABACK, BROUJOS, DOMBROWSKI, SAURMAN, ANGSTADT, NAHILL, JOHNSON, JACKSON, SCHULER, TIGUE, JAROLIN, G. SNYDER, R. C. WRIGHT, GRUPPO, J. L. WRIGHT, CLYMER, PUNT, GREENWOOD, BOOK, PHILLIPS, CARLSON, BLAUM, POTT, WOGAN, LETTERMAN, DALEY, F. TAYLOR, LUCYK, J. TAYLOR, E. Z. TAYLOR, VROON, SEMMEL, STAIRS, GRUITZA, FOSTER, BALDWIN, B. SMITH, PERZEL, LLOYD, BLACK, DISTLER, SWEET, SWIFT, COSLETT, L. E. SMITH, MACKOWSKI, DIETZ, RAYMOND, HERSHEY, CAPPABIANCA, GEIST, LANGTRY, CHADWICK, GODSHALL, PITTS, MARKOSEK, FOX, GLADECK, TELEK, VAN HORNE, MOWERY, PICCOLA, PETRARCA, GANNON, D. W. SNYDER, MICOZZIE, BUNT, McCLATCHY, KUKOVICH, HONAMAN, LASHINGER, HUTCHINSON AND HAGARTY, APRIL 30, 1986

REFERRED TO COMMITTEE ON BUSINESS AND COMMERCE, APRIL 30, 1986

AN ACT

1 Amending the act of July 2, 1984 (P.L.568, No.113), entitled "An
2 act providing technical and financial assistance to employee-
3 ownership groups that seek to retain or preserve jobs by
4 restructuring an existing business into an employee-owned
5 enterprise with a substantial prospect of future recovery;
6 providing technical assistance on employee-ownership to
7 existing firms and current employee-owned enterprises in
8 Pennsylvania; and making appropriations," further providing
9 for technical assistance, financial assistance and criteria
10 for evaluating applications; providing for grants; and
11 removing provisions relating to guidelines and regulations.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Sections 4 and 5 of the act of July 2, 1984
15 (P.L.568, No.113), known as the Employee-Ownership Assistance

1 Program Act, are amended to read:

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] two years as of the date of
23 application for the 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 net new jobs or retain
29 existing 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 net new jobs or retain existing jobs at sites
4 within this Commonwealth.

5 (c) Uses.--Loans [will] and grants may be made to employee-
6 ownership groups 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], to convert or to improve an
29 employee-owned enterprise [are subject to the following
30 repayment conditions:

(1) If the enterprise studied is purchased or improved by the employee group, the employee group shall repay the entire amount of the loan,] shall be repaid with interest, in a lump sum at the closing of the purchase of the company or within [one year] two years after the date of the release of the loan by the department, whichever occurs later.

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

(e) Other conditions.--

(1) The applicant shall provide evidence that there is a prospect for recovery and future job growth or job retention in applications under subsection (b)(1) or a substantial prospect of job growth or job retention in applications under subsections (b)(2) and (3).

(2) Maximum State participation is [50%] 90% of the total cost of the technical assistance [and the maximum loan size is \$100,000] or \$100,000 in loan and grants combined, whichever is less.

Section 5. Financial assistance.

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

(b) Eligibility.--Eligibility for this assistance shall be

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

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

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

16 (1) Loans, including deferred interest and principal
17 payments.

18 (2) Loan guarantees.

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

25 (f) Loan limits.--The maximum loan or guarantee is
26 \$1,500,000 per firm. Loan funds shall not exceed 25% of the
27 total project costs and guarantees shall not exceed 25% of the
28 total loan value. The term of the loan shall be the shortest
29 consistent with the needs of the firm, but no longer than 20
30 years. The interest rate on loans will be [at or above the

1 interest rate on the bonds issued to fund this act] determined
2 by the department.

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

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

13 Section 2. Section 10 of the act is repealed.

14 Section 3. This act shall take effect immediately.