

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1406 Session of  
1989

INTRODUCED BY FREEMAN, SCHULER, YANDRISEVITS, WAMBACH, KOSINSKI, RYBAK, CALTAGIRONE, MAINE, DeWEESE, ROBINSON, KONDRICH, COHEN, COLAIZZO, TIGUE, JOSEPHS, BELFANTI, LASHINGER, WOGAN, PISTELLA, McNALLY, ARGALL, DALEY, KASUNIC, JOHNSON, McCALL, GIGLIOTTI, ROEBUCK, BELARDI, ITKIN, MELIO, VAN HORNE, LINTON, PRESTON, WASS, MRKONIC, VEON, TRELLO, BILLOW, JAROLIN, BISHOP, JAMES AND McHALE, MAY 22, 1989

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, SEPTEMBER 25, 1989

## AN ACT

1 Establishing the Pennsylvania Heritage Affairs Commission and  
2 prescribing its powers and duties; establishing the Cultural  
3 Heritage Board and prescribing its powers and duties;  
4 imposing duties on local political subdivisions of this  
5 Commonwealth; authorizing the creation of local cultural  
6 heritage authorities; providing for cultural heritage project  
7 areas; and making an appropriation.

8 The General Assembly finds as follows:

9 (1) Section 27 of Article I of the Constitution of  
10 Pennsylvania makes the Commonwealth trustee for the  
11 preservation of historic value of this Commonwealth.

12 (2) The diverse cultural and ethnic heritage of  
13 Pennsylvania has significantly contributed and continues to  
14 contribute to the development and growth of this Commonwealth  
15 and the United States.

16 (3) The identification, protection, preservation and  
17 integration of this Commonwealth's cultural and ethnic

1 heritage promotes the public health, prosperity and general  
2 welfare.

3 (4) It is in the public interest for this Commonwealth,  
4 its citizens and its local political subdivisions to develop  
5 comprehensive programs to identify, conserve, AND perpetuate <—  
6 ~~and promote~~ the diverse cultural and ethnic heritage of <—  
7 Pennsylvania ~~for the enjoyment, education and inspiration of~~ <—  
8 AND TO PROMOTE GREATER AWARENESS AND UNDERSTANDING FOR THE <—  
9 EDUCATION, INSPIRATION AND THE GENERAL PUBLIC WELFARE OF all  
10 the people, including future generations.

11 (5) IT IS IN THE INTEREST OF THE COMMONWEALTH, ITS <—  
12 CITIZENS AND ITS LOCAL POLITICAL SUBDIVISIONS TO BE AWARE OF  
13 CULTURAL HERITAGE AS A KEY ELEMENT IN PUBLIC POLICY, ITS  
14 PLANNING AND PROGRAM DEVELOPMENT.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 Section 1. Short title.

18 This act shall be known and may be cited as the Heritage  
19 Affairs Act.

20 Section 2. Definitions.

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

24 "American civilization historian." A graduate or  
25 preeminently recognized authority in the history and development  
26 of culture within the United States.

27 "Archaeologist." A qualified professional with a graduate  
28 degree in archaeology or a closely related field with  
29 specialized experience in research, field work and analysis.

30 "Board." The Cultural Heritage Board as provided for in this

1 act.

2 "Commission." The Pennsylvania Heritage Affairs Commission  
3 as provided for in this act.

4 "Commissioner." A member of the commission.

5 "Cultural heritage." The traditional expressive culture  
6 within the various groups in Pennsylvania, including familial,  
7 ethnic, occupational, religious and regional groups. Expressive  
8 culture consists of a wide range of creative and symbolic forms,  
9 including, but not limited to, custom, belief, technical skill,  
10 language, literature, art, architecture, music, play, dance,  
11 drama, ritual, pageantry and handicrafts. These expressions are  
12 mainly learned orally, by imitation or in performance and are  
13 generally maintained without benefit of formal instruction or  
14 institutional direction. CULTURAL HERITAGE ENCOMPASSES THE <—  
15 VALUES, BELIEFS AND COMMUNITY STRUCTURES THAT UNDERLIE ITS  
16 EXPRESSION, AND THE WAYS THAT VALUES SHAPE AND AFFECT PUBLIC AND  
17 PRIVATE LIFE.

18 "Cultural heritage project area" or "project area." An area  
19 designated by a local political subdivision, with the approval  
20 of the Executive Committee, in which a concentrated effort is  
21 planned to conserve, preserve and promote the cultural heritage  
22 of the area according to the provisions of this act.

23 "Cultural resource management plan." An adopted plan that  
24 specifies a process for the identification, protection,  
25 conservation, preservation, interpretation and promotion of  
26 cultural heritage resources within a community or communities.  
27 ~~The plan may also include a process to accommodate unique~~ <—  
28 ~~cultural traditions in providing human services within the~~  
29 ~~affected community or in dealing with interethnic relations.~~

30 "Educator." An educator who has demonstrable experience,

1 ability and involvement in planning, developing and implementing  
2 comprehensive multiethnic, multicultural educational projects  
3 and programs with interagency cooperation on local, regional and  
4 Statewide levels.

5 "Folklorist." A recognized authority in the folk cultures  
6 within the United States.

7 "Historic commercial and industrial practitioner." An  
8 individual who has a demonstrated involvement with a commercial  
9 or industrial practice related to the historic workplace  
10 heritage of this Commonwealth.

11 "Historic preservationist." A preeminently recognized  
12 authority in the preservation of historic structures with expert  
13 knowledge about the stabilization, maintenance and restoration  
14 of a structure without adversely affecting its fabric,  
15 appearance or architectural integrity.

16 "Identified traditional craftsperson." An individual who has  
17 a demonstrated involvement in a traditional craft or art form  
18 related to the folk cultural traditions of this Commonwealth.

19 ~~"Social worker." An individual with demonstrated competence~~ <—  
20 ~~in providing services to economically or socially~~  
21 ~~underprivileged groups and individuals.~~

22 "Planner." An individual with a graduate degree in planning  
23 who is a preeminently recognized authority in planning with a  
24 demonstrated sensitivity to historic and cultural resources.

25 Section 3. Pennsylvania Heritage Affairs Commission.

26 (a) Membership.--There is hereby established the  
27 Pennsylvania Heritage Affairs Commission, composed of not less  
28 than 48 members. The membership shall consist of the following:

29 (1) Not less than 35 citizens of this Commonwealth,  
30 appointed by the Governor.

1           (2) Nine citizens of this Commonwealth shall be  
2 appointed by the Governor as at-large commissioners.

3           (3) Two members of the Senate, one from the majority  
4 party and one from the minority party, appointed by the  
5 President pro tempore.

6           (4) Two members of the House of Representatives, one  
7 from the majority party and one from the minority party,  
8 appointed by the Speaker of the House.

9           (b) Members as representative of various communities.--The  
10 members should be broadly representative of the ethnic and  
11 cultural communities of this Commonwealth and should further  
12 represent a true and even distribution of the various geographic  
13 areas, including both urban and rural community interests, as  
14 much as possible.

15          (c) Executive Committee.--The at-large members and the  
16 General Assembly members shall constitute an Executive Committee  
17 responsible for the ongoing programs of the commission.

18 Section 4. Terms of commissioners, vacancies, quorum, etc.

19          (a) Terms.--The Governor shall initially appoint one less  
20 than half of the members of the commission for terms of two  
21 years and the remaining members for terms of four years. Four  
22 at-large members shall initially be appointed for terms of two  
23 years and five at-large members for terms of four years.  
24 Thereafter, the terms of all commissioners appointed by the  
25 Governor shall be for four years. All commissioners appointed by  
26 the President pro tempore of the Senate and the Speaker of the  
27 House of Representatives shall serve for two years. Their terms  
28 shall correspond with the beginning and close of each regular  
29 session of the General Assembly.

30          (b) Vacancies.--Any appointments to fill vacancies created

1 by the resignation, removal or death of a commissioner shall be  
2 for the unexpired term of the vacancy.

3 (c) Quorum.--A majority of the commissioners shall  
4 constitute a quorum for conducting official business of the  
5 commission.

6 (d) Chairperson.--The Lieutenant Governor shall serve as the  
7 chairperson of the commission and Executive Committee. The  
8 chairperson shall not be a voting member of the commission.

9 (e) Compensation.--Members of the commission shall serve  
10 without compensation, other than reimbursement for actual and  
11 necessary expenses incurred in the performance of their duties,  
12 in accordance with the regulations of the Executive Board.

13 Section 5. Functions of the commission and Executive Committee.

14 (a) Commission.--The commission shall have the following  
15 responsibilities:

16 (1) Coordinate government and nongovernment programs and  
17 activities relating to or affecting the ethnic and cultural  
18 heritage of groups, individuals, institutions, organizations  
19 or communities in general.

20 (2) Assist government and nongovernment organizations in  
21 understanding unique cultural traditions when providing human  
22 services to ethnic and cultural groups, individuals,  
23 institutions, organizations or members of the community in  
24 general.

25 (3) Participate in the activities of ethnic and cultural  
26 heritage groups and institutions.

27 (4) Commemorate historical events and officially  
28 recognize outstanding accomplishments and contributions to  
29 this Commonwealth by individuals or organizations within the  
30 ethnic and cultural communities of this Commonwealth.

1           (5) Sponsor and promote events and projects that will  
2           increase the knowledge and appreciation of the contributions  
3           to our society by ethnic and cultural organizations,  
4           individuals and communities.

5           (6) Establish and maintain associations with ethnic and  
6           cultural organizations within this Commonwealth.

7           (7) Provide technical and financial assistance to public  
8           officials and private individuals or organizations engaged in  
9           ethnic and cultural awareness activities.

10          (8) Acquire easements in ethnically or culturally  
11          related properties and resources by gift, purchase, devise,  
12          bequest or any other lawful transfer when acquisition is  
13          necessary for the preservation of the property or resources.

14          (9) Contract with public officials, agents or other  
15          states, private individuals and organizations for ethnic or  
16          cultural heritage educational and preservation purposes.

17          (10) Rent or lease properties and resources for ethnic  
18          and cultural heritage educational or preservation purposes.

19          (11) Adopt appropriate procedures for the implementation  
20          of this act.

21          (b) Executive Committee.--The Executive Committee shall have  
22          the following responsibilities:

23               (1) Take final action on recommendations by the board  
24               for the designation of cultural heritage project areas and  
25               the funding of projects within the project areas.

26               (2) Take final action on recommendations by the board  
27               for grants to individuals or organizations to educate the  
28               public or promote awareness of the cultural heritage within  
29               the communities of this Commonwealth.

30               (3) Solicit, receive and utilize funds from any public

1 or private source to promote awareness of the ethnic and  
2 cultural heritage of this Commonwealth.

3 (4) Act on behalf of the full commission when it is not  
4 assembled to conduct business.

5 Section 6. Executive Director.

6 The Governor shall hire an Executive Director to administer  
7 the programs of the commission and any other personnel as may be  
8 necessary to assist the executive director, the commission, the  
9 executive committee and the board. The Executive Director shall  
10 have a demonstrated competence in administrative procedures and  
11 shall further have a demonstrated sensitivity toward cultural  
12 conservation. The Executive Committee may submit to the Governor  
13 a list of qualified individuals to fill any vacancy for the  
14 position of Executive Director.

15 Section 7. Cultural Heritage Board.

16 There is hereby established a Cultural Heritage Board,  
17 composed of not less than 15 members, as follows:

18 (1) Nine citizens of this Commonwealth appointed by the  
19 Executive Committee. These members shall ~~include at least one~~ <—  
20 ~~member with demonstrated competence in each of~~ BE SOUGHT FROM <—  
21 AMONG QUALIFIED REPRESENTATIVES FROM the following  
22 disciplines: American civilization historian, archaeologist,  
23 educator, folklorist, historic commercial or industrial  
24 practitioner, historic preservationist, identified  
25 traditional craftsman, ~~social worker~~, planner and other <—  
26 qualified individuals with a demonstrated sensitivity toward  
27 cultural conservation.

28 (2) A member of the Pennsylvania Historical and Museum  
29 Commission, a member of the Commonwealth of Pennsylvania  
30 Council on the Arts who shall be designated by a majority



1 vote of the respective commission and council, the Secretary  
2 of Community Affairs, the Secretary of Commerce and the  
3 Secretary of Education or their designees.

4 Section 8. Terms of board members, vacancies, quorum, etc.

5 (a) Terms.--The Executive Committee shall initially appoint  
6 eight members of the board for terms of two years and seven  
7 members for terms of four years. Thereafter, the terms of all  
8 board members appointed by the Executive Committee shall be for  
9 four years. Board members from the Pennsylvania Historical and  
10 Museum Commission and the Commonwealth of Pennsylvania Council  
11 on the Arts shall serve until the respective commission and  
12 council appoint a replacement. The Secretary of Community  
13 Affairs, the Secretary of Commerce and the Secretary of  
14 Education shall serve concurrently with their term of office.

15 (b) Vacancies.--Any appointments to fill vacancies created  
16 by the resignation, removal or death of a board member shall be  
17 for the unexpired term of the vacancy.

18 (c) Quorum.--A majority of the board members shall  
19 constitute a quorum for conducting official business of the  
20 board.

21 (d) Chairperson.--A chairperson shall be chosen by a  
22 majority vote of the board members present at the organizational  
23 meeting. The chairperson shall serve for a term of two years. A  
24 vote for chairperson shall occur in January of odd-numbered  
25 years, except in the initial organizational meeting of the  
26 board.

27 (e) Compensation.--Members of the board shall serve without  
28 compensation, other than reimbursement for actual and necessary  
29 expenses incurred in the performance of their duties, in  
30 accordance with the regulations of the Executive Committee.

1 Section 9. Powers and duties of board.

2 The board shall have the following powers and duties:

3 (1) Review and make recommendations to the Executive  
4 Committee for the approval or rejection of applications by  
5 local political subdivisions for the designation of project  
6 areas.

7 (2) Review and make recommendations to the Executive  
8 Committee for the approval or rejection of applications for  
9 funding projects in project areas, including the following  
10 categories: research and surveys; educational conferences and  
11 projects; publications and films; improvements to real  
12 properties and culturally significant sites; acquisitions of  
13 properties; AND acquisitions of culturally significant <—  
14 artifacts, papers and collections.; ~~improvements in human <—~~  
15 ~~services to ethnic and cultural organizations; and~~  
16 ~~improvements in the interethnic relations.~~

17 (3) Review and make recommendations to the Executive  
18 Committee for grants to individuals and organizations for  
19 projects in the following categories: research; publications;  
20 exhibitions; media productions; and activities which  
21 contribute to the perpetuation of cultural heritage  
22 resources.

23 Section 10. Cultural heritage project areas.

24 (a) Nomination of areas.--The governing bodies of local  
25 political subdivisions of this Commonwealth are hereby  
26 authorized to nominate identified cultural heritage project  
27 areas for approval and designation by the Executive Committee.

28 (b) Criteria for nomination.--Project areas nominated for  
29 designation must contain the following criteria:

30 (1) Documented evidence of cultural heritage resources

1 of a tangible or intangible nature that deserves  
2 identification, study and conservation.

3 (2) A strong local identification and commitment to  
4 identifying and conserving cultural heritage.

5 (3) A commitment by local agencies to developing a  
6 specific cultural resource management plan and community  
7 education process to promote the plan.

8 (4) A commitment by local agencies to review current  
9 policies of the local political subdivision with regard to  
10 the act of June 13, 1961 (P.L.282, No.167), entitled "An act  
11 authorizing counties, cities, boroughs, incorporated towns  
12 and townships to create historic districts within their  
13 geographic boundaries; providing for the appointment of  
14 Boards of Historical Architectural Review; empowering  
15 governing bodies of political subdivisions to protect the  
16 distinctive historical character of these districts and to  
17 regulate the erection, reconstruction, alteration,  
18 restoration, demolition or razing of buildings within the  
19 historic districts," and the act of July 31, 1968 (P.L.805,  
20 No.247), known as the Pennsylvania Municipalities Planning  
21 Code, whenever applicable, and to incorporate those policies  
22 in the local cultural resource management plan.

23 (5) A commitment by local agencies to review land use  
24 plans within the proposed project area and to promote  
25 environmentally sound public and private development within  
26 the project area.

27 (c) Benefits to designated areas.--Designated project areas  
28 shall be eligible for any benefits and protections provided for  
29 in this act, including, but not limited to, the following:

30 (1) Eligibility for financial and technical assistance

1 from the commission.

2 (2) Protection from environmentally unsound public and  
3 private development within project areas according to the  
4 cultural resource management plan, any provisions of this act  
5 and any ordinances adopted by the affected local political  
6 subdivisions.

7 Section 11. Local cultural heritage authorities.

8 (a) Establishment.--

9 (1) The governing bodies of local political subdivisions  
10 of this Commonwealth are hereby authorized to establish local  
11 cultural heritage authorities to assist in the development  
12 and administration of project areas. When it is deemed in the  
13 public interest by adjoining local political subdivisions,  
14 agreements may be reached between two or more local political  
15 subdivisions for the establishment of project areas which  
16 include areas from all of the participating political  
17 subdivisions.

18 (2) Except where otherwise inconsistent with this act,  
19 these authorities shall be organized under the act of May 2,  
20 1945 (P.L.382, No.164), known as the Municipality Authorities  
21 Act of 1945.

22 (b) Powers and duties.--The local cultural heritage  
23 authority shall have the following powers and duties, subject to  
24 the approval of the governing bodies of the local political  
25 subdivisions:

26 (1) Conduct surveys and research in areas where there  
27 are strong indications that tangible and intangible cultural  
28 heritage resources exist.

29 (2) Develop a comprehensive cultural resource management  
30 plan to be integrated with the community development programs

1 of the affected communities.

2 (3) Recommend specific areas for designation as project  
3 areas.

4 (4) Hire appropriate personnel for the development and  
5 administration of the cultural resource management plan and  
6 project areas.

7 (5) Develop plans and programs to educate the community  
8 of its cultural heritage as part of a total community  
9 education process plan.

10 (6) Raise funds, as permitted by State and Federal law,  
11 for projects and programs within project areas.

12 (7) Acquire fee and lesser interest in cultural heritage  
13 properties, including adjacent or associated lands, by  
14 purchase, bequest or devise and preserve, restore, maintain  
15 and operate such properties.

16 (8) Lease, sell and otherwise transfer or dispose of  
17 cultural heritage properties, subject to rights of public  
18 access and other covenants and in a manner that will preserve  
19 and perpetuate the cultural heritage of the property.

20 (9) Contract with private or public organizations and  
21 agencies for the purposes of cultural resource management  
22 activities.

23 Section 12. Interagency cooperation.

24 All agencies, departments, bureaus, commissions,  
25 instrumentalities, agents or employees of the Commonwealth  
26 shall:

27 (1) Notify the commission 30 days prior to demolishing,  
28 altering or transferring any property under their  
29 jurisdiction that may have significance to the ethnic or  
30 cultural heritage of an area.

1           (2) Seek the advice of the commission on possible  
2 alternatives to the demolition, alteration or transfer of  
3 property under their jurisdiction that is or may be within a  
4 designated project area.

5           (3) Institute procedures and policies to assure that  
6 their plans, programs, codes, regulations and activities  
7 contribute to the conservation and enhancement of all ethnic  
8 and cultural heritage resources in this Commonwealth.

9           (4) Provide technical and financial assistance, when  
10 desirable and feasible, for the development, implementation,  
11 administration and enhancement of the cultural resource  
12 management plans of the communities of this Commonwealth.

13 Section 13. Appropriation and use of funds.

14       (a) Amount.--The sum of \$750,000, or as much thereof as may  
15 be necessary, is hereby appropriated to the Pennsylvania  
16 Heritage Affairs Commission to carry out the provisions of this  
17 act for the fiscal period commencing immediately following the  
18 effective date of this act.

19       (b) Allocation to local authorities.--The sum of \$300,000  
20 shall be allocated from the appropriation in subsection (a) for  
21 direct technical and financial assistance to local cultural  
22 heritage authorities for the development, implementation,  
23 administration and enhancement of cultural resource management  
24 plans, subject to the limitations provided for in this act.

25 Section 14. Effective date.

26       This act shall take effect immediately.