

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2436 Session of
2000

INTRODUCED BY TULLI, APRIL 3, 2000

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
JUNE 5, 2000

AN ACT

1 Amending the act of August 23, 1967 (P.L.251, No.102), entitled,
2 as amended, "An act providing for the incorporation as public
3 instrumentalities of the Commonwealth and as bodies corporate
4 and politic of industrial and commercial development
5 authorities for municipalities, counties and townships;
6 prescribing the rights, powers and duties of such authorities
7 hereafter incorporated; authorizing such authorities to
8 acquire, by gift or purchase, to construct, improve and
9 maintain industrial, specialized, or commercial development
10 projects including projects for the elimination or prevention
11 of blight and the control of air and water pollution, and to
12 borrow money and issue bonds therefor; providing for the
13 payment of such bonds and giving security therefor, and
14 prescribing the rights of the holders of such bonds;
15 authorizing the lease or sale of industrial, specialized, or
16 commercial development projects to industrial, specialized,
17 or commercial enterprises; authorizing any county,
18 municipality or township to transfer or convey to such
19 authorities, any facilities or property available for
20 industrial, specialized, or commercial development projects;
21 exempting the property and securities of such authorities
22 from taxation; authorizing such authorities to enter into
23 contracts with and to accept grants from the Federal
24 Government or any agency thereof; and providing for approval
25 by the Secretary of Commerce of the proceedings relating to
26 industrial, specialized, or commercial development projects
27 of such authorities," further providing for membership and
28 compensation of the authority; and making editorial changes.

29 The General Assembly of the Commonwealth of Pennsylvania

30 hereby enacts as follows:

1 Section 1. The title of act of August 23, 1967 (P.L.251,
2 No.102), known as the Economic Development Financing Law,
3 amended December 19, 1975 (P.L.576, No.165), is amended to read:
4 Providing for the incorporation as public instrumentalities of
5 the Commonwealth and as bodies corporate and politic of
6 industrial and commercial development authorities for
7 municipalities, counties and townships; prescribing the
8 rights, powers and duties of such authorities hereafter
9 incorporated; authorizing such authorities to acquire, by
10 gift or purchase, to construct, improve and maintain
11 industrial, specialized, or commercial development projects
12 including projects for the elimination or prevention of
13 blight and the control of air and water pollution, and to
14 borrow money and issue bonds therefor; providing for the
15 payment of such bonds and giving security therefor, and
16 prescribing the rights of the holders of such bonds;
17 authorizing the lease or sale of industrial, specialized, or
18 commercial development projects to industrial, specialized,
19 or commercial enterprises; authorizing any county,
20 municipality or township to transfer or convey to such
21 authorities, any facilities or property available for
22 industrial, specialized, or commercial development projects;
23 exempting the property and securities of such authorities
24 from taxation; authorizing such authorities to enter into
25 contracts with and to accept grants from the Federal
26 Government or any agency thereof; and providing for approval
27 by the Secretary of [Commerce] Community and Economic
28 Development of the proceedings relating to industrial,
29 specialized, or commercial development projects of such
30 authorities.

1 Section 2. The definitions of "cost of the project," "cost,"
2 "department" and "secretary" in section 3 of the act, amended
3 December 17, 1993 (P.L.490, No.74), are amended to read:

4 Section 3. Definitions.--As used in this act:

5 * * *

6 "Cost of the project" or "cost" means and includes any and
7 all costs of a project, including, but not limited to, any and
8 all costs and expenses of acquisition of all land, interests in
9 land, property, rights, buildings, structures, equipment,
10 furnishings and other tangible or intangible property comprising
11 the project, the expense of demolishing, removing or relocating
12 any buildings or structures on lands acquired or to be acquired
13 and the expense of acquiring any lands to which such buildings
14 or structures may be moved or relocated, financing charges and
15 other costs of financing and issuing bonds, interest expenses
16 prior to and during construction and for a period of twelve
17 months thereafter, costs of engineering, financial, accounting
18 and legal services, plans, specifications, studies, surveys
19 necessary or incidental to determining the feasibility or
20 practicability of constructing the project, administrative
21 expenses, reserves for interest and such other expenses as may
22 be necessary or incidental to the development, implementation or
23 use of the project and the placing of the same in operation. In
24 addition, "cost of the project" or "cost" may include working
25 capital or other capital needs related to industrial, commercial
26 or other economic activities or operating costs of public
27 facilities, provided, however, that working capital, operating
28 costs and other capital needs shall be limited as a percentage
29 of the cost of the project financed with the proceeds of bonds
30 issued under this act by regulations, statements of policy,

1 guidelines or rulings issued by the Department of [Commerce]
2 Community and Economic Development.

3 "Department" means the Department of [Commerce] Community and
4 Economic Development of the Commonwealth.

5 * * *

6 "Secretary" means the Secretary of [Commerce] Community and
7 Economic Development of the Commonwealth.

8 * * *

9 Section 3. Section 6.1 of the act, amended December 17, 1993
10 (P.L.490, No.74), is amended to read:

11 Section 6.1. Pennsylvania Economic Development Financing
12 Authority; Board of Directors.--(a) There is hereby created a
13 body corporate and politic, with corporate succession, to be
14 known as the "Pennsylvania Economic Development Financing
15 Authority."

16 (b) The financing authority shall be governed and all of its
17 corporate powers exercised by a board of directors which shall
18 be composed of the following individuals:

19 (1) ~~Seven~~ EIGHT members to be appointed by the Governor, <—
20 with the advice and consent of the Senate, who shall represent
21 the general public and the public interest. At least two of the
22 gubernatorial appointees shall possess one or more of the
23 following qualifications: (i) at least 5 years' experience as
24 a chief executive officer of a corporation or other business
25 entity which employs at least 100 persons; (ii) a graduate
26 degree in urban planning or comparable discipline and not less
27 than 5 years' experience as an urban planner; or (iii)
28 recognized expertise and experience in regard to employment and
29 business trends. The members initially appointed shall serve for
30 terms of two, three and four years, respectively, from the date

1 of their appointment and until their respective successors shall
2 be duly appointed and qualified, the term of each appointed
3 member to be designated by the Governor at the time of his
4 appointment. Initially, three members shall be appointed for
5 terms of four years; two members shall be appointed for terms of
6 three years; and two members shall be appointed for terms of two
7 years. The terms of all of their successors shall be four years
8 each, except that any person appointed to fill a vacancy shall
9 serve only for the unexpired term, and any appointed member
10 shall be eligible for reappointment.

11 (2) The Secretary of [Commerce, or its successor agency]
12 Community and Economic Development, who will serve as chairman,
13 or his designee.

14 (3) The Secretary of Labor and Industry or his designee.

15 [(4) The Secretary of Community Affairs or his designee.]

16 (5) The Secretary of Agriculture or his designee.

17 (6) The Secretary of Banking or his designee.

18 (7) One member to be appointed by the Majority Leader of the
19 Senate, one member to be appointed by the Minority Leader of the
20 Senate, one member to be appointed by the Majority Leader of the
21 House of Representatives and one member to be appointed by the
22 Minority Leader of the House of Representatives. All members
23 shall serve at the pleasure of the appointing authority.

24 (c) [The] Except as otherwise provided in this subsection,
25 the members of the financing board shall be entitled to no
26 compensation for their services as members but shall be entitled
27 to reimbursement for all necessary expenses incurred in
28 connection with the performance of their duties as members. Each
29 member of the authority other than a public officer or an
30 employee, shall be compensated at the rate of \$250 per day

<—

1 AUTHORIZED PURSUANT TO FEDERAL PER DIEM RATES KNOWN AS CONUS <—
2 RATES for each day the member attends a meeting of the authority
3 AND SHALL ALSO RECEIVE ALL ACTUAL AND NECESSARY TRAVEL EXPENSES. <—

4 (d) The financing board shall provide for the holding of
5 regular and special meetings. A majority of the members of the
6 financing board shall constitute a quorum for the transaction of
7 any financing authority business. No vacancy on the financing
8 board shall impair the right of a quorum of the members of the
9 financing board to exercise the powers and perform the duties of
10 the financing authority.

11 (e) All applicable State departments and agencies shall
12 cooperate with and provide assistance to the financing board
13 without financial reimbursement.

14 (f) The financing authority may be dissolved by law provided
15 that the financing authority has no bonds or other debts or
16 obligations outstanding or that provision has been made for the
17 payment or retirement of all such bonds, debts and obligations.
18 Upon the dissolution of the financing authority, all property,
19 funds and assets of the financing authority shall be vested in
20 the Commonwealth.

21 Section 4. Section 6.3(d) of the act is amended to read:

22 Section 6.3. Financing Authority Indebtedness.--* * *

23 (d) If the bonds issued by the financing authority are tax-
24 exempt bonds for which Federal law requires an allocation, the
25 Department of [Commerce] Community and Economic Development
26 shall issue an allocation charging such small issue project's
27 pro rata share of the issue to the county in which said project
28 is to be located provided that the project requires a type of
29 allocation distributed by the department to the counties.

30 * * *

Section 5. Section 10 of the act, amended July 16, 1975
(P.L.60, No.36), is amended to read:

Section 10. Moneys of The Authority.--All moneys of any authority, from whatever source derived, shall be paid to the treasurer of the authority. Said moneys shall be deposited in banks, bank and trust companies or under savings contracts in savings associations, in one or more special accounts. Such special accounts to the extent the same is not insured shall be continuously secured by a pledge of direct obligations of the United States of America, of the Commonwealth or as otherwise provided by law having an aggregate market value, exclusive of accrued interest, at all times at least equal to the balance on deposit in such account. Such securities shall either be deposited with the treasurer, or be held by a trustee or agent satisfactory to the authority. All banks, bank and trust companies and savings associations are authorized to give such security for such deposits. The moneys in said accounts shall be paid out on the warrant or other order of the chairman of the authority, or of such other person or persons as the authority may authorize to execute such warrants or orders. Every authority shall file an annual report with the Department of [Commerce] Community and Economic Development and with the municipality creating the authority on forms prepared and distributed by the Department of [Commerce] Community and Economic Development, which shall make provision for the accounting of revenues and expenses. Every authority shall have its books, accounts and records audited annually in accordance with generally accepted auditing standards by an independent auditor who shall be a certified public accountant or competent public accountant and a copy of his audit report shall be

1 attached to and be made a part of the aforesaid annual report. A
2 concise financial statement shall be published annually, at
3 least once in a newspaper of general circulation in the
4 municipality where the principal office of the authority is
5 located. If such publication is not made by the authority, the
6 municipality shall publish such statement at the expense of the
7 authority. If the authority fails to make such an audit, then
8 the controller, auditors or accountant designated by the
9 municipality, are hereby authorized and empowered from time to
10 time to examine at the expense of the authority the accounts and
11 books of the authority, including its receipts, disbursements,
12 contracts, leases, sinking funds, investments, and any other
13 matters relating to its finances, operations and affairs.

14 The Auditor General of the Commonwealth of Pennsylvania shall
15 have the right to examine the books, accounts and records of any
16 authority.

17 Section 6. This act shall take effect in 60 days.