

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 876 Session of 2001

INTRODUCED BY DENT, PUNT, COSTA, CORMAN, ERICKSON, THOMPSON, BOSCOLA, WAUGH, GERLACH, KUKOVICH, TOMLINSON, ORIE, LOGAN AND WENGER, MAY 17, 2001

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 5, 2001

AN ACT

1 Creating the Ben Franklin Technology Development Authority;
2 defining its powers and duties; establishing a fund THE BEN <—
3 FRANKLIN TECHNOLOGY DEVELOPMENT AUTHORITY FUND; and making a
4 repeal.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as The Ben Franklin
9 Technology Development Authority Act.

10 Section 2. Definitions.

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

14 "Authority." The Ben Franklin Technology Development
15 Authority.

16 "Ben Franklin Technology Partner" or "partner." A nonprofit
17 corporation certified in accordance with this act.

18 "Board." The Board of Directors of the Ben Franklin

1 Technology Development Authority.

2 "Department." The Department of Community and Economic
3 Development of the Commonwealth.

4 "Private sector funds." Monetary or in-kind support from
5 private businesses, corporations, individuals, trade
6 associations, foundations, federally and locally supported grant
7 programs and other non-Commonwealth sources. The term includes
8 machinery and equipment and other forms of tangible assets
9 approved by the Ben Franklin Technology Development Authority.

10 "Secretary." The Secretary of Community and Economic
11 Development of the Commonwealth.

12 Section 3. Ben Franklin Technology Development Authority.

13 (a) Creation.--There is hereby created a public authority
14 and instrumentality of the Commonwealth known as the Ben
15 Franklin Technology Development Authority. The authority shall
16 be a body corporate and politic and exercise the powers of the
17 Commonwealth as an agency of the Commonwealth.

18 (b) Management.--The powers of the authority shall be
19 exercised by the board.

20 (c) Staffing.--The department shall provide staff services
21 to the authority. The department may, with the approval of the
22 Governor, contract with consultants or other entities to augment
23 these services as needed. No more than 3% of funds annually
24 appropriated to the authority shall be used to pay
25 administrative costs, expenses and fees associated with the
26 operations of the authority.

27 (d) Powers.--The authority, through action of the board,
28 shall have all of the following powers:

29 (1) To adopt bylaws, guidelines and regulations as it
30 deems necessary.

1 (2) To contract and to execute instruments necessary or
2 convenient for the carrying on of its business.

3 (3) To appoint committees and subcommittees as are
4 needed.

5 (4) To sue and be sued, complain and defend in court.

6 (5) To accept funds from all available sources.

7 (e) Duties.--The authority shall encourage and coordinate
8 programs and investments which advance the competitiveness of
9 Commonwealth companies in the global economy. The authority
10 shall:

11 (1) Develop policies and implement programs which
12 promote an entrepreneurial business environment, advances
13 technologies and a technology-ready work force.

14 (2) Select and certify four regional nonprofit
15 corporations as partners.

16 (3) Coordinate funding for the programs, initiatives and
17 actions of the authority and the partners.

18 (4) Award grants and other forms of financial incentives
19 to companies, economic development agencies, educational
20 institutions, government agencies or other entities for
21 research activities related to economic development at
22 academic and research institutions and community-based and
23 economic development technology initiatives.

24 (5) Establish a revolving loan fund for the purpose of
25 making financing available to technology companies.

26 (6) Invest in companies, economic development agencies,
27 educational institutions, government agencies or other
28 entities as necessary to carry out the authority's
29 activities.

30 (7) Assist efforts to identify and pursue funding

1 opportunities from the Federal Government and other sources.

2 (8) Establish and require audits, disclosures and other
3 review procedures for all activities funded by the authority.

4 (F) DEBT RESTRICTION.--NOTWITHSTANDING ANY OTHER PROVISIONS ←
5 OF THIS ACT TO THE CONTRARY, THE AUTHORITY MAY NOT ISSUE ANY
6 BONDS, NOTES OR ANY OTHER OBLIGATION EVIDENCING A DEBT OR
7 LIABILITY OF THE AUTHORITY, THE COMMONWEALTH OR ANY OF ITS
8 POLITICAL SUBDIVISIONS.

9 Section 4. Board.

10 (a) Members.--The authority shall be governed by a board
11 consisting of 21 members. The following individuals shall be
12 members of the board:

13 (1) The Governor.

14 (2) The Secretary of Community and Economic Development.

15 (3) The Secretary of Education.

16 (4) The Secretary of Administration.

17 (5) Seven representatives from the technology business
18 sector to be appointed by the Governor, four of whom shall be
19 selected from the current members of the regional partners'
20 boards of directors, and at least one from the private
21 capital community.

22 (6) One representative from the Pennsylvania Economic
23 Development Association to be appointed by the Governor.

24 (7) One representative from the local government sector
25 to be appointed by the Governor.

26 (8) One representative from the community development
27 sector to be appointed by the Governor.

28 (9) Three representatives from the education sector to
29 be appointed by the Governor.

30 (10) Four members of the General Assembly appointed as

1 follows:

2 (i) One member appointed by the President pro
3 tempore of the Senate.

4 (ii) One member appointed by the Minority Leader of
5 the Senate.

6 (iii) One member appointed by the Speaker of the
7 House of Representatives.

8 (iv) One member appointed by the Minority Leader of
9 the House of Representatives.

10 (b) Terms.--

11 (1) The Governor, the secretary, the Secretary of
12 Education and the Secretary of Administration shall serve for
13 as long as they hold their respective positions.

14 (2) Those remaining members of the authority initially
15 appointed by the Governor shall serve for the following term
16 of years:

17 (i) Four representatives from the private sector and
18 two representatives from the education sector shall serve
19 terms of four years.

20 (ii) Three representatives from the private sector,
21 one representative from the education sector, the
22 representative from the Pennsylvania Economic Development
23 Association, the representative from the local government
24 sector and the representative from the community
25 development sector shall serve for terms of two years.

26 (3) All of the respective successors appointed under
27 subsection (a)(5), (6), (7), (8) and (9) shall serve for
28 terms of four years or until their respective successors
29 shall be duly appointed by the Governor. Any members
30 appointed to fill a vacancy created otherwise than by

1 expiration of term shall be appointed for the unexpired term
2 of the member whom he or she is to succeed.

3 (4) The members of the General Assembly shall serve
4 terms of two years, such terms to run concurrently with the
5 term of the legislative session.

6 (c) Designees.--A public officer of the board may designate
7 an officer or employee of the Commonwealth to represent him or
8 her at meetings of the board. A designee may lawfully vote and
9 otherwise act on behalf of the member of the board. The
10 designation shall be in writing, delivered to the authority and
11 continue in effect until revoked or amended in writing.

12 (d) Compensation.--The members of the board shall receive no
13 compensation for their services but shall be reimbursed for
14 their expenses actually incurred in the performance of their
15 official duties under this act.

16 (e) Organization.--The secretary shall be the chairman and
17 chief executive officer of the board. The chairman may designate
18 an officer or employee of the department to chair board meetings
19 in his absence. The board shall elect a secretary and treasurer
20 from its members at the first meeting of each calendar year.

21 (f) Quorum.--A majority of the members of the board shall
22 constitute a quorum of the board for the purpose of organizing
23 the authority and conducting the business. Only members or their
24 designees who are physically present at a meeting or able to
25 participate fully in the deliberations by appropriate
26 telecommunications means shall count toward a quorum of the
27 board. Action shall be taken by a vote of a majority of the
28 members present and voting unless otherwise specified in this
29 act.

30 (g) Committees.--The board may appoint committees to advise

1 and assist its work. A committee may not certify a partner or
2 award a grant. Committees of the board shall be appointed by the
3 chairman and may consist of board members and nonmembers.

4 Section 5. Ben Franklin Technology Partners.

5 The Ben Franklin Technology Partners shall be independent
6 nonprofit institutions, working individually and in partnership
7 with each other, to advance the development of new technologies
8 in this Commonwealth. The partners will be overseen by regional
9 boards of directors comprised of economic development,
10 university or nonprofit research institutions and private
11 industry representatives, with at least 50% representation from
12 private industry. The activities of the partners may include,
13 but not be limited to, the following:

14 (1) Serve as the Commonwealth's key regional partners in
15 identifying, developing, adapting and implementing advanced
16 technologies to enable the growth and competitiveness of
17 existing and emerging companies through technology
18 development, commercialization and implementation.

19 (2) Act as regional facilitators and managers for
20 interactions, programs and initiatives by and among the
21 authority, technology enterprises, economic development
22 organizations, corporate community, academic/research
23 institutions, government, organized labor and other interests
24 working collaboratively to advance the development of a
25 technology-based economy across this Commonwealth.

26 (3) Directly provide, and serve as the conduit to, seed
27 and later stage capital for existing and emerging companies
28 involved in the development and commercialization of
29 technologically advanced products and processes.

30 (4) Develop, provide or support business incubation

1 resources and space and facilitate the development of
2 technology business campuses.

3 (5) Establish and administer a research grant fund for
4 the economic impact assessments of university-based
5 technology development projects seeking funding through the
6 authority.

7 (6) Establish partnerships to support and enhance the
8 scale, scope and impact of initiatives that support the
9 purpose and mission of the authority and the partners.

10 Section 6. Certification.

11 (A) PARTNERS CERTIFIED BY AUTHORITY.--A nonprofit ←—
12 corporation may submit an application for certification as a
13 partner to the authority. After a review of the applications,
14 the authority shall select and certify four regional nonprofit
15 corporations as partners. The authority shall select one partner
16 from each of the four regions of this Commonwealth meeting its
17 criteria and the requirements of section 5. The authority shall
18 modify or revoke a partner's certification consistent with the
19 regulations, policies and guidelines of the authority. The
20 authority may change the number of regions or change the minimum
21 service boundary within a given region with a two-thirds
22 majority vote of the board. A partner in existence and in
23 receipt of funds from the department as of the effective date of
24 this act is hereby deemed certified as a partner.

25 (B) PARTNERS CERTIFIED BY SECRETARY.--THE SECRETARY MAY ←—
26 CERTIFY NONPROFIT CORPORATIONS AS PARTNERS AND MAY ESTABLISH
27 THEIR GEOGRAPHICAL BOUNDARIES. SUCH PARTNERS AND GEOGRAPHICAL
28 BOUNDARIES SHALL BE IN ADDITION TO THOSE CERTIFIED OR
29 ESTABLISHED BY THE AUTHORITY UNDER SUBSECTION (A).

30 Section 7. Grants to partners.

1 (a) Awards.--A partner may apply for a grant by submitting
2 an application to the authority. After review and approval of
3 the application, the authority shall sign a grant agreement with
4 the partner and award a grant. The grant agreement shall permit
5 the partner to award grants and other forms of financial
6 assistance to entities only if matched by private sector funds
7 on a minimum basis to be established by the authority.

8 (b) Implementation.--Upon receipt of a grant pursuant to
9 this section, a partner shall implement the terms of the grant.
10 Failure to comply with the terms of the grant agreement shall
11 result in forfeiture of the grant.

12 Section 8. Reporting.

13 A partner shall annually submit the following information to
14 the authority:

15 (1) The partner's current mailing address and telephone
16 number.

17 (2) A copy of the partner's current articles of
18 incorporation and bylaws.

19 (3) A list of the partner's current officers and
20 directors.

21 (4) An independent audit covering all funds received
22 from the Commonwealth.

23 (5) Upon request, an independent audit covering all
24 funds received and partner activities supported by non-
25 Commonwealth sources.

26 (6) Such other information as the authority may require.

27 Section 9. Records.

28 Upon request, a partner shall permit authorized employees or
29 agents of the authority to inspect its books and records during
30 regular business hours.

1 Section 10. ~~Fund established~~ BEN FRANKLIN TECHNOLOGY ←
2 DEVELOPMENT AUTHORITY FUND.

3 (A) ESTABLISHMENT.--There is hereby established in the State ←
4 Treasury a special fund to be known as the Ben Franklin
5 Technology Development Authority Fund into which shall be
6 deposited any State appropriations to the authority, to the
7 partners, to technology and research activities assigned to the
8 authority, any other State appropriations for a purpose related
9 to this act, Federal funds, royalties, gifts, grants, bequests,
10 devises, private funds and funds from any other source which are
11 designated to the authority. Funds appropriated by the General
12 Assembly, including Federal funds, which are earmarked for a
13 specific program or purpose, including the Ben Franklin
14 Technology Partners and university research efforts, shall be
15 allocated directly to that program or purpose. ~~Moneys in the ←~~
16 ~~fund are hereby appropriated to the authority, upon approval of~~
17 ~~the Governor, to carry out the purposes of this act.~~

18 (B) APPROPRIATION OF MONEYS.--MONEYS IN THE FUND, INCLUDING ←
19 FEDERAL FUNDS, SHALL BE ANNUALLY APPROPRIATED BY THE GENERAL
20 ASSEMBLY FOR THE PURPOSES SET FORTH IN THIS ACT.

21 Section 11. Transfers.

22 All allocations, appropriations, equipment, files, records,
23 contracts, agreements, obligations and other materials of the
24 board of the Ben Franklin/IRC Partnership Fund under the act of
25 July 2, 1993 (P.L.439, No.64), known as the Ben Franklin/IRC
26 Partnership Act, as they pertain to the Ben Franklin Technology
27 Centers are hereby transferred to the authority with the same
28 force and effect as if the allocation and appropriations have
29 been made to and the items had been the property of the
30 authority in the first instance and as if the contracts,

1 agreements and obligations had been incurred or entered into by
2 the authority. The Pennsylvania Technology Investment Authority
3 revolving loan account in the department is hereby transferred
4 to the Ben Franklin Technology Development Authority Fund and
5 may be established as a revolving loan fund by the authority.

6 Section 12. Regulations.

7 The authority shall develop policies and guidelines and
8 promulgate regulations as necessary to carry out the provisions
9 of this act.

10 Section 13. Repeal.

11 As much of the act of July 2, 1993 (P.L.439, No.64), known as
12 the Ben Franklin/IRC Partnership Act, as refers to the Ben
13 Franklin technology centers is repealed.

14 Section 14. Effective date.

15 This act shall take effect July 1, 2001, or immediately,
16 whichever is later.