

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1**Special Session No. 1 of
2007-2008

INTRODUCED BY DePASQUALE, BELFANTI, BENNINGTON, CALTAGIRONE,
DALEY, EACHUS, FRANKEL, FREEMAN, GEIST, GEORGE, KESSLER,
KORTZ, McCALL, McGEEHAN, McILVAINE SMITH, M. O'BRIEN,
PASHINSKI, SIPTROTH, SURRA, VITALI, YUDICHAK, PARKER,
WOJNAROSKI, JOSEPHS AND WALKO, NOVEMBER 15, 2007

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,
NOVEMBER 15, 2007

AN ACT

1 Amending Title 64 (Public Authorities and Quasi-Public
2 Corporations) of the Pennsylvania Consolidated Statutes, in
3 Commonwealth Financing Authority, providing for use of funds
4 dedicated by the General Assembly; further providing for
5 indebtedness; consolidating provisions of The Administrative
6 Code of 1929 relating to the Energy Development Authority and
7 emergency powers; further providing for board directors,
8 meetings and quorum, for the powers of the Pennsylvania
9 Energy Development Authority and for authority indebtedness;
10 and making a related repeal.

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

13 Section 1. Title 64 of the Pennsylvania Consolidated
14 Statutes is amended by adding a section to read:

15 § 1515. Funds dedicated by the General Assembly.

16 (a) Dedication of funds.--The General Assembly shall
17 dedicate funds to carry out the purposes of this section.

18 (b) Transfer of funds.--The State Treasurer shall transfer
19 all funds received pursuant to this section within 30 days of
20 receipt of the funds as follows:

1 (1) \$600 million to the Energy Development Fund for the
2 purposes of 64 Pa.C.S. § 1806(21) (relating to powers and
3 duties).

4 (2) \$250 million to the authority for the purposes of
5 this section.

6 (c) Uses of funds by authority.--With respect to funds
7 dedicated by the General Assembly for the purposes of this
8 section, the authority shall have the powers and duties to
9 fulfill the obligations of a bond for alternative energy
10 projects, including, but not limited to, funding for alternative
11 and renewable energy projects, such as:

12 (1) \$50 million to provide loans to venture capital
13 partnerships. The funds designated for this purpose shall be
14 transferred to the New Pennsylvania Venture Capital
15 Investment Program under section 1557 (relating to New
16 Pennsylvania Venture Capital Investment Program).

17 (2) \$50 million to provide grants and loans for working
18 capital, equipment acquisition, construction and site
19 preparation.

20 (3) \$150 million to provide grants and loans to
21 businesses for infrastructure preparation and development of
22 high efficient advanced energy business sites.

23 (d) Policy.--In exercising its powers and duties under
24 subsection (a), the authority shall:

25 (1) Promote the diversification of energy generation by
26 supporting a broad cross-section of clean energy
27 technologies.

28 (2) Encourage the deployment of distributed generation
29 projects for public infrastructure around this Commonwealth.

30 (3) Consider the economic development potential of each

1 proposed project as it fits into the larger context of this
2 Commonwealth's advanced energy market.

3 (4) Establish the goal of expanding the market for
4 clean, advanced energy technologies, service and fuels. In
5 pursuit of this goal, the authority shall emphasize the
6 following investment priorities:

7 (i) Attracting or expanding clean, advanced energy
8 manufacturing operations in this Commonwealth.

9 (ii) Deployment of "behind-the-fence" clean,
10 advanced, energy projects at manufacturing facilities to
11 enhance their competitiveness.

12 (5) Bring the most flexibility possible to the design of
13 its financing vehicles and to the focus of its solicitations.
14 Financing vehicles such as loan guarantees, insurance
15 products and flex loans, which can have delayed repayment
16 schedules or very low interest rates, may be utilized in
17 addition to traditional financing for some types of projects.
18 The authority shall emphasize flexibility in its
19 solicitations, which may be broadly targeted to the general
20 advanced energy community or narrowly targeted toward
21 specific areas where market gaps exist.

22 (6) Seek to leverage its capital to the maximum extent
23 possible. The authority may work with the investment and
24 developer community to leverage its funds by requiring
25 significant matching funds for all projects except in rare
26 circumstances and, when allowable, by investing in projects
27 that are likely to yield significant returns. The authority
28 shall consider ways to manage and increase its own funding,
29 including exploration of a variety of potential avenues,
30 including, but not limited to, Federal grants, private

1 foundation grants and legislative appropriations.

2 (7) Require, except in rare circumstances, all projects
3 to demonstrate that they have obtained significant matching
4 funds, including, but not limited to, funds from Federal,
5 State, local or private sources, or any combination thereof.

6 (8) Evaluate a proposed project to ascertain whether the
7 project has sufficient funding to enable project completion.

8 (9) When considering loans or loan guarantees,
9 thoroughly evaluate, in partnership with the department, the
10 credit of all borrowers and ensure that all financing is
11 awarded to borrowers who evidence a reasonable likelihood of
12 being able to repay such loans.

13 (e) Evaluation criteria.--In addition to specific criteria
14 developed by the authority, the following general criteria shall
15 be considered by the authority for all deployment projects:

16 (1) Potential to expand the market for the indigenous
17 energy resources of this Commonwealth.

18 (2) Potential to enhance Pennsylvania's energy security
19 and diversity.

20 (3) Ability to demonstrate significant environmental
21 benefits.

22 (4) Potential either to promote energy conservation or
23 to increase energy production from alternative energy
24 sources.

25 (5) Potential economic benefits for the Commonwealth,
26 which may be in the form of job creation, new investment,
27 savings to consumers or revenue generation for other
28 beneficiaries, such as farmers, local governments or other
29 landowners.

30 (6) Technical feasibility and cost-effectiveness of the

1 project.

2 Section 2. Section 1543 of Title 64 is amended by adding a
3 subsection to read:

4 § 1543. Indebtedness.

5 * * *

6 (d.1) Bonds issued from funds dedicated by the General
7 Assembly.--Bonds issued for the programs established in section
8 1515 (relating to funds dedicated by the General Assembly) shall
9 not be subject to nor shall they apply toward the aggregate
10 amount of indebtedness permitted to be incurred by the authority
11 under this section.

12 Section 3. Title 64 is amended by adding a chapter to read:

13 CHAPTER 18

14 ENERGY DEVELOPMENT AUTHORITY AND EMERGENCY POWERS

15 Sec.

16 1801. Definitions.

17 1802. Emergency petroleum product shortages.

18 1803. Energy Development Authority.

19 1804. Technical and financial support.

20 1805. Annual report.

21 1806. Powers and duties.

22 1807. Authority indebtedness.

23 1808. Financial assistance.

24 1809. Energy development plan.

25 1810. Exemption from taxation.

26 1811. Funding of authority.

27 1812. Limitation of powers.

28 1813. Audit.

29 § 1801. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Authority." The Energy Development Authority established in
4 section 1803 (relating to Energy Development Authority).

5 "Board." The board of directors of the Energy Development
6 Authority.

7 "Bonds." Notes, bonds, refunding or renewal notes and bonds
8 and other evidence of indebtedness or obligations which the
9 Energy Development Authority is authorized to issue.

10 "Cost." The expense of construction and the expense of
11 acquisition of all structures, lands and other property rights
12 and interests in land necessary to a project. The term also
13 includes the expense of demolishing, removing or relocating any
14 buildings or structures on lands acquired or to be acquired,
15 including the following:

16 (1) the expense of acquiring any lands to which the
17 buildings or structures may be moved or relocated;

18 (2) sewage treatment, waste treatment and pollution
19 control facilities;

20 (3) railroad sidings, spurs or branch lines;

21 (4) all labor, materials, machinery and equipment and
22 fixtures;

23 (5) financing charges;

24 (6) interest on all bonds prior to and during
25 construction and for a period of one year thereafter;

26 (7) engineering, financial and legal services;

27 (8) plans, specifications, studies, surveys necessary or
28 incidental to determining the feasibility or practicability
29 of constructing a project;

30 (9) administrative expenses;

1 (10) reserves for interest and for extension,
2 enlargements, additions and improvements; and

3 (11) such other expenses as may be necessary or
4 incidental to the construction of the project and the placing
5 of the same in operation.

6 "Person." A natural person, corporation, partnership,
7 association or municipality of this Commonwealth and any public
8 corporation, authority or body whatsoever.

9 "Petroleum product." Motor gasoline, kerosene, distillates,
10 including Number 2 fuel oil, and diesel fuel.

11 "Project." An activity entirely or largely conducted in this
12 Commonwealth which cannot be effectively funded using privately
13 available resources, relating to:

14 (1) basic and applied research concerning energy use,
15 renewable energy resources and energy extraction,
16 transmission, storage or conversion;

17 (2) limited scale demonstration of innovative or
18 commercially unproven technology to promote the production,
19 use or conservation of energy;

20 (3) activities to promote or remove obstacles to the
21 utilization and transportation of Pennsylvania energy
22 resources, including, but not limited to, limited scale
23 synthetic fuel facilities and the conversion or technological
24 improvement of industrial, commercial or agricultural systems
25 to utilize Pennsylvania coal or renewable energy resources,
26 except that the facility shall not unreasonably interfere
27 with private waste recycling industries;

28 (4) activities designed to further development or
29 deployment of:

30 (i) alternative energy sources, including those

1 defined in the act of November 30, 2004 (P.L.1672,
2 No.213), known as the Alternative Energy Portfolio
3 Standards Act;

4 (ii) alternative fuels, including those defined in
5 the act of November 29, 2004 (P.L.1376, No.178), known as
6 the Alternative Fuels Incentive Act;

7 (iii) energy efficiency technology; and

8 (iv) energy conservation measures.

9 (5) Activities designed to improve the energy efficiency
10 of large-scale industrial production facilities.

11 § 1802. Emergency petroleum product shortages.

12 (a) General rule.--The Governor may, by executive order,
13 proclaim a state of emergency based upon a finding that there
14 impends or exists a substantial shortage of petroleum products
15 available for use in this Commonwealth which poses a serious
16 threat to the health, safety or welfare of the public. A state
17 of emergency shall remain in effect for the maximum period of 90
18 days and may be extended by the Governor unless the extension is
19 disapproved by concurrent resolution adopted by both houses of
20 the General Assembly. A state of emergency may be declared for
21 all or any portion of this Commonwealth.

22 (b) Designation.--Upon proclamation of a state of emergency,
23 the Governor shall designate a State agency to conduct emergency
24 allocation measures during the period of the declared emergency.

25 Emergency allocation measures may consist of:

26 (1) the administration of any emergency allocation
27 powers delegated to the Commonwealth by the President or any
28 Federal agency;

29 (2) the implementation of a set-aside program, for not
30 more than 1% of the petroleum products available for use in

1 this Commonwealth, to alleviate hardship or meet emergency
2 needs. A set-aside program shall be established in conformity
3 with any Federal law, regulations or executive orders
4 governing petroleum allocation and shall apply only to
5 petroleum products found to be in a substantial shortage;

6 (3) measures to reduce demand for or consumption of
7 gasoline; and

8 (4) other measures identified by the Governor in an
9 executive order proclaiming a state of emergency as necessary
10 to protect the public health, safety and welfare.

11 (c) Regulations.--The agency designated by the Governor to
12 conduct emergency measures may, during the period of the
13 emergency, adopt rules and regulations pursuant to section 204
14 of the act of July 31, 1968 (P.L.769, No.240), referred to as
15 the Commonwealth Documents Law. Any regulation adopted during a
16 state of emergency shall be automatically rescinded upon the
17 expiration of the emergency.

18 (d) Monitoring.--The Governor may designate a State agency
19 to monitor supplies of petroleum products available for use in
20 this Commonwealth to determine whether there exists, or is
21 likely to exist, a shortage.

22 (1) In order to monitor supplies of petroleum products,
23 the agency may require recordkeeping and periodic reports
24 from petroleum suppliers which shall, to the maximum extent
25 possible, employ federally mandated reports and records,
26 avoid duplicative reporting and recordkeeping and minimize
27 paperwork, recordkeeping and reporting requirements.

28 (2) Reports filed and records maintained pursuant to
29 this subsection shall be deemed confidential.

30 (3) When a petroleum supplier or a company providing

1 information to a petroleum supplier claims that the
2 information requested by the agency is confidential,
3 proprietary, market or trade secret information or when the
4 information is deemed confidential pursuant to this section,
5 the agency shall not disclose the information publicly or to
6 any other governmental agency unless the information is
7 aggregated as part of a statistical report in which the data
8 and individual companies supplying the data cannot be
9 identified.

10 (4) No employee or appointee of the agency or any other
11 person may release information from a petroleum product
12 company that would enable data provided by or relating to
13 individual customers of the petroleum company to be
14 identified as relating to or coming from the individual
15 customer. Any person disclosing the information in violation
16 of this section commits a misdemeanor of the third degree,
17 shall be subject to disciplinary action, including reprimand,
18 suspension or termination, and may be ordered to make
19 restitution to any injured or aggrieved party for losses or
20 damages shown.

21 (5) In order to obtain information required pursuant to
22 this subsection, the agency designated by the Governor to
23 monitor supplies of petroleum products may receive or share
24 information from any other Federal, State or local agency.
25 The agency shall provide the same confidentiality to
26 information recovered as is provided by the supplying agency.

27 § 1803. Energy Development Authority.

28 (a) Establishment.--There is established the Energy
29 Development Authority.

30 (b) Board of directors.--The authority shall be governed and

1 all of its corporate powers exercised by a board of directors
2 which shall be composed of the following individuals:

3 (1) The Secretary of Environmental Protection or a
4 designee.

5 (2) The Secretary of Banking or a designee.

6 (3) The Secretary of Community and Economic Development
7 or a designee.

8 (4) The Secretary of Agriculture or a designee.

9 (5) Four legislative appointees.

10 (i) Appointments are as follows:

11 (A) One individual appointed by the President
12 pro tempore of the Senate.

13 (B) One individual appointed by the Minority
14 Leader of the Senate.

15 (C) One individual appointed by the Majority
16 Leader of the House of Representatives.

17 (D) One individual appointed by the Minority
18 Leader of the House of Representatives.

19 (ii) Legislative appointees shall serve at the
20 pleasure of the appointing authority.

21 (iii) An individual appointed to the board pursuant
22 to subparagraph (i) may not be a member of the General
23 Assembly or staff of a member of the General Assembly.

24 (c) Organization.--The Governor shall select a member of the
25 board to serve as chairperson. The members shall select from
26 among themselves such officers as they shall determine.

27 (d) Compensation.--Members of the board of directors shall
28 be entitled to no compensation for their services as members but
29 shall be entitled to reimbursement for all necessary expenses
30 incurred in connection with the performance of their duties as

1 members.

2 (e) Meetings and quorum.--The board of directors shall
3 provide for the holding of regular and special meetings. The
4 consent of at least five directors, with at least four of the
5 consenting directors being appointed under subsection (b)(5),
6 shall be required to adopt any action on behalf of the
7 authority.

8 § 1804. Technical and financial support.

9 (a) General rule.--The Governor shall designate a State
10 agency to provide staff services to the authority for its
11 administration of this chapter, including technical services to
12 assist the authority in carrying out the provisions of this
13 chapter.

14 (b) Personnel and services.--The authority may utilize
15 personnel and services from any departments, agencies or other
16 authorities of the Commonwealth whose facilities and services
17 may be useful to the authority for implementation of this
18 chapter upon approval of the departments, agencies or
19 authorities.

20 (c) Reimbursement.--The authority may make reimbursement to
21 an agency, department or authority of the Commonwealth for
22 expenses incurred in providing services or use of facilities
23 acquired by the authority.

24 (d) Construction.--Notwithstanding 66 Pa.C.S. § 511
25 (relating to disposition, appropriation and disbursement of
26 assessments and fees) or any other law of this Commonwealth, no
27 funds received as reimbursement under this section shall be
28 deemed to be in substitution for funds from another source, nor
29 shall the funds reduce assessments to any utility. No funds
30 shall lapse at termination of a fiscal year, nor shall the funds

1 reduce any assessment by the Pennsylvania Public Utility
2 Commission in any fiscal year.

3 § 1805. Annual report.

4 The board shall make an annual report of the activities of
5 the authority for the preceding fiscal year, not later than 120
6 days after the conclusion of the fiscal year, to the Governor
7 and General Assembly. Each report shall contain a statement of
8 activities and a complete operating and financial statement
9 covering the operations of the authority.

10 § 1806. Powers and duties.

11 The authority, as a public corporation and governmental
12 instrumentality exercising public powers of the Commonwealth, is
13 granted, shall have and may exercise all powers necessary or
14 appropriate to carry out and effectuate the purposes of this
15 chapter, including, but not limited to, the power:

16 (1) To conduct examinations and investigations and take
17 testimony under oath or affirmation at public or private
18 hearings on matters material for its information and
19 necessary to determination and approval of energy development
20 project loan applications.

21 (2) To have existence until its existence shall be
22 terminated by law.

23 (3) To sue and be sued, implead and be impleaded,
24 complain and defend in all courts.

25 (4) To adopt, use and alter at will a corporate seal.

26 (5) To make bylaws for management and regulation of its
27 affairs and make, amend and repeal rules and regulations
28 governing the business of the authority.

29 (6) To seek technical determinations on project
30 applications.

1 (7) To make contracts of every name and nature and
2 execute all instruments necessary or convenient for the
3 carrying on of its business.

4 (8) To accept grants from and enter into contracts or
5 other transactions with Federal agencies.

6 (9) To take title by foreclosure or otherwise to a
7 project or other property pledged, mortgaged, encumbered or
8 otherwise available as security for a project financed in
9 whole or in part by the authority, whether by loan, loan
10 guarantee or otherwise where acquisition is necessary to
11 protect the interests of the authority regarding a project,
12 to pay costs arising out of the acquisition from money held
13 in the Energy Development Fund and to sell, transfer and
14 convey all or any portion of a project to a responsible
15 buyer.

16 (10) To purchase and make payments of mortgages on any
17 project where the purchase or payment is necessary to protect
18 a loan or loan guarantee previously made by the authority and
19 to sell, transfer, convey or assign any such mortgage. Money
20 so used by the authority in the purchase of any mortgage, or
21 any payments thereon, shall be withdrawn from the Energy
22 Development Fund, and money derived from the sale of any
23 mortgages shall be deposited by the authority in the fund.

24 (11) To lease, lease with an option to purchase, sell by
25 installment sale or otherwise, or otherwise dispose of any or
26 all of its projects, for the rentals or amounts and upon such
27 terms and conditions as the authority deems proper.

28 (12) To finance projects by making loans to persons to
29 provide funds for project costs.

30 (13) To guarantee loans of money made to persons, upon

1 the terms and conditions which the authority may prescribe,
2 relating to projects.

3 (14) To make grants to fund projects.

4 (15) To collect fees and charges determined to be
5 reasonable as to activities undertaken in furtherance of the
6 purposes of this chapter.

7 (16) To borrow money for the operation and work of the
8 authority by making notes and issuing bonds under the
9 provisions of this chapter.

10 (17) To pledge, hypothecate or otherwise encumber
11 revenues or receipts of the authority as security for bonds
12 of the authority.

13 (18) To receive appropriations and apply for and accept
14 grants, gifts, donations, bequests and settlements from a
15 public or private source. Money received by the authority
16 shall be deposited in the Energy Development Fund and used
17 for the purposes of the authority.

18 (19) To promote and facilitate the sale through this
19 Commonwealth of alternative energy credits as defined in the
20 act of November 30, 2004 (P.L.1672, No.213), known as the
21 Alternative Energy Portfolio Standards Act. This paragraph
22 shall not be construed as conferring on the Commonwealth the
23 authority to purchase, acquire or sell alternative energy
24 credits.

25 (20) To establish rebate and incentive programs to help
26 defray the costs to persons associated with the purchase,
27 manufacture or distribution of products used to generate
28 alternative energy or employing energy-efficient technology.

29 (21) To enter into agreements with the Department of
30 Community and Economic Development and the Ben Franklin

1 Technology Development Authority to provide for the transfer
2 of funds from the Energy Development Fund or other funds
3 under the control of the authority, to be used for energy-
4 related activities and to fulfill the obligations of a bond
5 for alternative energy projects, including:

6 (i) \$56 million to the Ben Franklin Technology
7 Development Authority to support early-stage activities,
8 including incubator support services, management support,
9 translational research activities and early-stage
10 capital. The funds designated for these purposes shall be
11 transferred to the Ben Franklin Technology Partners, and
12 the guidelines in effect on the effective date of this
13 chapter for determining project eligibility and to award
14 project or program financing shall be used by the Ben
15 Franklin Technology Partners in providing financial
16 support called for in this paragraph.

17 (ii) \$44 million to create a rebate program to lower
18 the retail price of new energy-efficient appliances.

19 (iii) \$200 million toward rebates and grants for
20 solar photovoltaic, other solar electric or solar thermal
21 installations.

22 (iv) \$300 million to provide grants and loans for
23 alternative energy projects, alternative fuels and
24 demand-side management and efficiency measures for all
25 customer classes, including, but not limited to, energy-
26 efficient building construction, equipment and
27 renovation.

28 § 1807. Authority indebtedness.

29 (a) General rule.--The authority shall have the power and is
30 authorized from time to time, by resolution of the authority and

1 subject to the written approval of the Governor, to issue its
2 negotiable bonds in such principal amount as, in the opinion of
3 the authority, shall be necessary to provide sufficient funds
4 for any of its corporate purposes, the establishment of reserves
5 to secure the bonds and all other expenditures of the authority
6 incident to and necessary or convenient to carry out its
7 corporate purposes and powers. The aggregate principal amount of
8 bonds and notes of the authority shall not exceed \$800,000,000
9 outstanding at any one time.

10 (b) Refund or renewal.--The authority, whenever it deems it
11 expedient, shall have the power to refund or renew any bonds by
12 the issuance of new bonds whether the bonds to be refunded or
13 renewed have or have not matured. Refunding bonds shall be sold
14 and the proceeds applied to the purchase, redemption or payment
15 of the bonds to be refunded.

16 (c) No personal liability.--Neither the members of the board
17 of the authority nor any person executing the bonds shall be
18 liable personally on the bonds or be subject to any personal
19 liability or accountability by reason of the issuance thereof.

20 (d) No Commonwealth debt.--Bonds issued under the provisions
21 of this chapter shall not be deemed to constitute a debt of the
22 Commonwealth or any political subdivision or a pledge of the
23 faith and credit of the Commonwealth or any political
24 subdivision.

25 (e) Bond requirements.--

26 (1) The bonds of the authority shall be of the series,
27 bear date or dates, mature at the time or times not exceeding
28 40 years from their respective dates, bear interest at the
29 rate or rates, payable at least semiannually, be in the
30 denominations, be in the form, either coupon or fully

1 registered without coupons, carry the registration,
2 exchangeability and interchangeability privileges, by payment
3 in medium of payment and at the place or places, be subject
4 to the terms of redemption, with or without premium, and be
5 entitled to the priorities in the revenue or receipts of the
6 authority as the resolution or resolutions of the authority
7 may provide.

8 (2) The bonds shall be signed by or shall bear the
9 facsimile signature of the officers the authority shall
10 determine, and coupon bonds shall have attached to the coupon
11 bond in interest coupons bearing the facsimile signature of
12 the chairman of the authority, all as may be prescribed in
13 the resolution or resolutions of the authority.

14 (3) Bonds may be issued and delivered, notwithstanding
15 that one or more of the officers signing the bonds shall have
16 ceased to be the officer or officers at the time when the
17 bonds shall actually be delivered.

18 (4) Bonds may be sold at public or private sales for the
19 price or prices as the authority shall determine. Pending the
20 preparation of the definitive bonds, interim receipts may be
21 issued to the purchaser or purchasers of the bonds and may
22 contain such terms and conditions as the authority may
23 determine.

24 (5) Any bond reciting in substance that it has been
25 issued by the authority to aid in the financing of one or
26 more projects to accomplish the public purposes of this
27 chapter shall be conclusively deemed in proceedings involving
28 the validity or enforceability of the bond or security for
29 the bond to have been issued for that purpose.

30 (f) Bond provisions.--A resolution or resolutions

1 authorizing bonds may contain provisions, which shall be part of
2 the contract with holders of the bonds, as to any of the
3 following:

4 (1) Pledging the full faith and credit of the authority.

5 (2) The terms and provisions of the bonds.

6 (3) Limitations on the purposes to which the proceeds of
7 the bonds then or from then on to be issued may be applied.

8 (4) The setting aside of reserves or sinking funds and
9 the regulation and disposition of the reserves or sinking
10 funds.

11 (5) Limitations on the issuance of additional bonds.

12 (6) The terms and provisions of any indenture under
13 which the bonds may be issued.

14 (7) Any other or additional agreements with the holders
15 of the bonds.

16 (g) Indentures and other agreements.--The authority may
17 enter into indentures or other agreements, with a bank or trust
18 company in or outside this Commonwealth, including a Federal
19 agency, and may assign and pledge all or any of the revenues or
20 receipts of the authority. The indenture or other agreement may
21 contain such provisions as may be customary in such instruments
22 or as the authority may authorize, including, but without
23 limitation, provisions as to:

24 (1) the application of funds and the safeguarding of
25 funds on hand or on deposit;

26 (2) the rights and remedies of the trustee and the
27 holders of the bonds, which may include restrictions upon the
28 individual right of action of the holders; and

29 (3) the terms and provisions of the bonds or any
30 additional bonds or the resolutions authorizing the issuance

1 of the bonds or additional bonds.

2 (h) Negotiable instruments.--The bonds shall have all the
3 qualities of negotiable instruments under 13 Pa.C.S. Div. 3
4 (relating to negotiable instruments).

5 (i) Rights and remedies.--The rights and remedies conferred
6 upon or granted to the bondholders shall be in addition to and
7 not in limitation of any rights and remedies lawfully granted to
8 the bondholders by the resolution or resolutions providing for
9 the issuance of bonds or by any indenture or other agreement
10 under which the bonds may be issued.

11 (j) Default.--In the event that the authority shall default
12 in the payment of principal of premium, if any, or interest on
13 any issue of bonds after the principal, premium or interest
14 shall become due, whether at maturity, upon call for redemption
15 or otherwise and the default shall continue for a period of 30
16 days, or in the event that the authority shall fail or refuse to
17 comply with the provisions of this chapter or shall default in
18 any agreement made with the holders of the bonds, the holders of
19 25% in aggregate principal amount of the bonds then outstanding
20 of the issues, by instrument or instruments filed in the Office
21 of the Prothonotary of the Commonwealth Court, may appoint a
22 trustee to represent the bondholders for the purposes provided
23 in this subsection. The trustee and any trustee under any
24 indenture or other agreement may, and upon written request of
25 the holders of 25% or other percentage as may be specified in
26 any indenture or other agreement, in principal amount of the
27 particular issues of bonds then outstanding shall, in the
28 trustee's own name:

29 (1) By mandamus or other suit, action or proceeding at
30 law or in equity, enforce all rights of the bondholders,

1 including the right to require the authority to carry out any
2 agreement as to or pledge of the revenues or receipts of the
3 authority and to require the authority to carry out any other
4 agreements with or for the benefit of the bondholders and to
5 perform its and their duties under this chapter.

6 (2) Bring suit upon the bonds.

7 (3) By action or suit in equity require the authority to
8 account as if it were the trustee of an express trust for the
9 bondholders.

10 (4) By action or suit in equity enjoin any acts or
11 things which may be unlawful or in violation of the rights of
12 the bondholders.

13 (5) By notice in writing to the authority, declare all
14 bonds due and payable and if all defaults shall be made good,
15 then with the consent of the holders of 25% or such other
16 percentage as may be specified in any indenture or other
17 agreement of the principal amount of bonds then outstanding,
18 to announce the declaration and its consequences.

19 (k) Jurisdiction.--The Commonwealth Court shall have
20 jurisdiction of any suit, action or proceeding by the trustee on
21 behalf of the bondholders.

22 (l) Trustee powers.--

23 (1) A trustee appointed by the court or trustee acting
24 under an indenture or other agreement, and whether or not all
25 bonds have been declared due and payable, shall be entitled
26 as of right to the appointment of a receiver, who may
27 exercise dominion over the mortgages or other security held
28 by or available to the authority or any part of the
29 authority, the revenues or receipts from which are or may be
30 applicable to the payment of the bonds so in default, and

1 collect and receive all revenues arising after default from
2 the bonds in the same manner as the authority might do and
3 shall deposit all money in a separate account and apply the
4 same in the manner as the court shall direct.

5 (2) In any suit, action or proceeding by a trustee, the
6 fees, the counsel fees and expenses of the trustee and of the
7 receiver, if any, and all costs and disbursements allowed by
8 the court shall be a first charge on any revenues and
9 receipts derived from the mortgages of the authority or other
10 security held by or available to the authority, the revenues
11 or receipts from which are or may be applicable to the
12 payment of the bonds in default.

13 (3) A trustee shall also have all of the power necessary
14 or appropriate for the exercise of any function specifically
15 set forth in this section, in any indenture or other
16 agreement or incident to the general representation of the
17 bondholders in the enforcement and protection of their
18 rights.

19 § 1808. Financial assistance.

20 (a) General rule.--When it has been determined by the
21 authority, upon application and hearing in the manner provided
22 in this section, that the granting of financial assistance will
23 accomplish the public purposes of this chapter, the authority
24 may contract to make financial assistance available in an amount
25 not in excess of the cost of the project.

26 (b) Confirmation of other funding.--Prior to committing
27 itself to provide financial assistance under this section, the
28 authority shall have determined that the person requesting the
29 assistance has obtained from other responsible and independent
30 sources, including the Federal Government, banks, savings and

1 loan associations or otherwise, a firm commitment for all other
2 funds, over and above the amount of financial assistance
3 requested from the authority, which in the aggregate shall be
4 sufficient to cover the entire cost of the project.

5 (c) Time period and interest.--Any loan, lease, sale,
6 guarantee or other agreement with response to a project shall be
7 for the period of time and shall bear interest at the rate as
8 shall be determined by the authority and may be secured by
9 mortgage on and security interest in the project which the loan,
10 lease, guarantee or other sale agreement relates, or with
11 respect to any other property of the obligor, or any other
12 security which the authority determines to be necessary.

13 (d) Manner of payment.--Money made available for projects by
14 the authority shall be withdrawn from the appropriate funds and
15 paid over to the obligor in the manner provided and prescribed
16 by the resolutions, rules and regulations of the authority, the
17 loan, lease, sale, guarantee or other agreement and the
18 indenture or agreement of trust, if any, relating to the
19 project.

20 (e) Deposit in appropriate funds.--All payments of interest
21 on funds made available for projects and the principal amount
22 shall be deposited by or on behalf of the authority in the
23 appropriate funds.

24 (f) Application form.--Prior to disbursing any funds for, or
25 committing itself to guarantee any indebtedness relating to, or
26 providing technical assistance for a project, the authority
27 shall receive an application in the form and having the content
28 the authority may prescribe from the person seeking the
29 assistance.

30 § 1809. Energy development plan.

1 (a) Contents.--In order to devise the most effective
2 strategy for providing the financial and technical assistance
3 authorized in this chapter, the authority shall publish by
4 August 15, 1983, a plan for the allocation and distribution of
5 financial and technical assistance. The energy development plan
6 shall do all of the following:

7 (1) Place maximum reliance upon allocation and
8 distribution strategies that exploit the use of other
9 available Federal, State, local and private financial
10 support.

11 (2) Allocate appropriated authority funds, money made
12 available from payment of principal and interest received by
13 the authority not otherwise payable to other creditors or
14 bondholders and other funds available to the authority to
15 projects whose likelihood or implementation would be
16 diminished unless financial and technical assistance from the
17 authority is made available.

18 (3) Provide for the approval of assistance for projects
19 that will make the greatest possible contributions to energy
20 conservation and development.

21 (4) Provide financial and technical assistance only to
22 persons with a demonstrated need and who evidence reasonable
23 likelihood of being able, in the case of loans and loan
24 guarantees, to repay the loans.

25 (5) Identify the various classes of projects to be
26 provided with financial and technical assistance and allocate
27 available authority funds among these classes. Specifically,
28 the authority shall consider increasing coal production and
29 the use of renewable fuels and in energy efficiency in
30 buildings and industry in establishing its priorities.

1 (6) Establish application procedures and criteria for
2 granting financial and technical assistance.

3 (7) Establish procedures for the periodic updating and
4 revision of the energy development plan.

5 (b) Public hearings.--The authority shall hold public
6 hearings at locations throughout this Commonwealth to receive
7 comments upon and suggestions for the improvement of the energy
8 development plan. These hearings shall be concluded within 90
9 days of the publication of the initial plan. Not more than 90
10 days following the completion of hearings, the authority shall
11 promulgate its final energy development plan.

12 § 1810. Exemption from taxation.

13 (a) Exemption.--The effectuation of the authorized purposes
14 of the authority is for the benefit of the people of this
15 Commonwealth and since the authority will as a government
16 instrumentality of the Commonwealth be performing essential
17 government functions in effectuating the purposes, the bonds or
18 other evidences of indebtedness issued by the authority, their
19 transfer and the income from the bonds shall at all times be
20 free from taxation within this Commonwealth.

21 (b) Interest on certain bonds.--The authority may covenant
22 and consent that the interest on certain of its bonds shall be
23 includable, under the Internal Revenue Code of 1986 (Public Law
24 99-514, 26 U.S.C. § 1 et seq.) or any subsequent corresponding
25 internal revenue laws of the United States, in the gross income
26 of the holders of the bonds to the same extent and in the same
27 manner that the interest on bills, bonds, notes or other
28 obligations of the United States is includable in the gross
29 income of the holders thereof under the Internal Revenue Code of
30 1986. Notwithstanding any covenant or consent of the authority,

1 the exemption provided in subsection (a) shall not be affected.

2 § 1811. Funding of authority.

3 (a) Energy Development Fund.--A special account is hereby
4 created in the State Treasury to be known as the Energy
5 Development Fund. The fund shall be used to prepare the energy
6 development plan, to pay for initial administrative costs
7 associated with initial bond issues, to make grants for limited
8 research and pursuant to this chapter to establish such reserves
9 as in the judgment of the authority with respect to loans
10 guaranteed or bonds issued by the authority may be necessary or
11 desirable or to accomplish any other of its corporate purposes.

12 (b) Administrative costs.--As often as may be necessary, the
13 authority shall requisition from the appropriate funds the
14 amounts necessary to provide adequate funds for the payment of
15 the administrative costs related to this chapter.

16 (c) Excess funds.--At any time that the authority shall
17 determine that funds held for the credit of the Energy
18 Development Fund are in excess of the amount needed to carry out
19 the purposes of this chapter, the authority shall take such
20 action as shall be required to release the excess from the fund
21 and transfer the same to the General Fund of the State Treasury.

22 § 1812. Limitation of powers.

23 The Commonwealth pledges to and agrees with any person or
24 Federal agency subscribing to or acquiring the bonds to be
25 issued by the authority for the construction of any project or
26 part of the project, that the Commonwealth will not limit or
27 alter adversely the rights vested in the authority until all
28 bonds at any time issued, together with the interest, are fully
29 met and discharged. The Commonwealth further pledges to and
30 agrees with any Federal agency that if the Federal agency shall

1 construct or contribute funds for the construction of any
2 project or any portion of the project, the Commonwealth will not
3 alter or limit the rights and powers of the authority in any
4 manner that would be inconsistent with the continued maintenance
5 and operation of any project or the improvement of the project,
6 or that would be inconsistent with the due performance of any
7 agreements between the authority and the Federal agency, and the
8 authority shall continue to have and may exercise all powers
9 granted under this chapter, as long as the same shall be
10 necessary or desirable for carrying out the purposes of this
11 chapter and the purposes of the United States pertaining to the
12 construction, acquisition or improvement of any project or
13 portion of the project.

14 § 1813. Audit.

15 The accounts and books of the authority, including its
16 receipts, disbursements, contracts, mortgages, investments and
17 other matters relating to its finances, operation and affairs
18 shall be examined and audited every two years by the Auditor
19 General.

20 Section 4. The following apply:

21 (1) The General Assembly declares that the repeal under
22 paragraph (2) is necessary to effectuate the addition of 64
23 Pa.C.S. Ch. 18.

24 (2) Article XXVIII-C of the act of April 9, 1929
25 (P.L.177, No.175), known as The Administrative Code of 1929,
26 is repealed.

27 Section 5. The addition of 64 Pa.C.S. Ch. 18 is a
28 continuation of Article XXVIII-C of the act of April 9, 1929
29 (P.L.177, No.175), known as The Administrative Code of 1929. The
30 following apply:

1 (1) Except as otherwise provided in 64 Pa.C.S. Ch. 18,
2 all activities initiated under Article XXVIII-C of The
3 Administrative Code of 1929 shall continue and remain in full
4 force and effect and may be completed under 64 Pa.C.S. Ch.
5 18. Orders, regulations, rules and decisions which were made
6 under Article XXVIII-C of The Administrative Code of 1929 and
7 which are in effect on the effective date of section 2(2) of
8 this act shall remain in full force and effect until revoked,
9 vacated or modified under 64 Pa.C.S. Ch. 18. Contracts,
10 obligations and collective bargaining agreements entered into
11 under Article XXVIII-C of The Administrative Code of 1929 are
12 not affected nor impaired by the repeal of Article XXVIII-C
13 of The Administrative Code of 1929.

14 (2) Except as set forth in paragraph (3), any difference
15 in language between 64 Pa.C.S. Ch. 18 and Article XXVIII-C of
16 The Administrative Code of 1929 is intended only to conform
17 to the style of the Pennsylvania Consolidated Statutes and is
18 not intended to change or affect the legislative intent,
19 judicial construction or administration and implementation of
20 Article XXVIII-C of The Administrative Code of 1929.

21 (3) Paragraph (2) does not apply to the following
22 provisions:

23 (i) Paragraphs (3), (4) and (5) of the definition of
24 "project" in 64 Pa.C.S. § 1801.

25 (ii) 64 Pa.C.S. § 1802(d)(4).

26 (iii) 64 Pa.C.S. § 1803(b), (c), (d) and (e).

27 (iv) 64 Pa.C.S. § 1806(2), (14), (19), (20) and
28 (21).

29 (v) 64 Pa.C.S. § 1807 (a) and (c).

30 (vi) 64 Pa.C.S. § 1811(a).

1 Section 6. Upon dedication of funding by the General
2 Assembly pursuant to 64 Pa.C.S. § 1515, the State Treasurer
3 shall publish a notice to that effect in the Pennsylvania
4 Bulletin.

5 Section 7. This act shall take effect as follows:

6 (1) This section and section 6 of this act shall take
7 effect immediately.

8 (2) The remainder of this act shall take effect upon
9 publication of the notice required by section 6 of this act.