

THE GENERAL ASSEMBLY OF PENNSYLVANIA

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

INTRODUCED BY DePASQUALE, BELFANTI, BENNINGTON, CALTAGIRONE,
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MELIO, SCAVELLO AND K. SMITH, NOVEMBER 15, 2007

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND
ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED,
DECEMBER 12, 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

1 receipt of the funds as follows:

2 (1) ~~\$600 million~~ SIX HUNDRED MILLION DOLLARS to the <—
3 Energy Development Fund for the purposes of 64 Pa.C.S. §
4 1806(21) (relating to powers and duties).

5 (2) ~~\$250 million~~ TWO HUNDRED FIFTY MILLION DOLLARS to <—
6 the authority for the purposes of this section.

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

13 (1) ~~\$50 million~~ AN AMOUNT UP TO 20% OF THE REVENUES <—
14 TRANSFERRED TO THE AUTHORITY, BUT NO MORE THAN \$50,000,000 to
15 provide loans to venture capital partnerships. The funds
16 designated for this purpose shall be transferred to the New
17 Pennsylvania Venture Capital Investment Program under section
18 1557 (relating to New Pennsylvania Venture Capital Investment
19 Program).

20 (2) ~~\$50 million~~ AN AMOUNT UP TO 20% OF THE REVENUES <—
21 TRANSFERRED TO THE AUTHORITY, BUT NO MORE THAN \$50,000,000 to
22 provide grants and loans for working capital, equipment
23 acquisition, construction and site preparation.

24 (3) ~~\$150 million~~ AN AMOUNT UP TO 60% OF THE REVENUES <—
25 TRANSFERRED TO THE AUTHORITY, BUT NO MORE THAN \$150,000,000
26 to provide grants and loans to businesses AND MUNICIPALITIES, <—
27 MUNICIPAL AUTHORITIES, REDEVELOPMENT AUTHORITIES AND
28 INDUSTRIAL DEVELOPMENT AGENCIES for infrastructure
29 preparation and development of high efficient advanced energy
30 business sites.

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

3 (1) Promote the diversification of energy generation by
4 supporting a broad cross-section of clean energy
5 technologies.

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

8 (3) Consider the economic development potential of each
9 proposed project as it fits into the larger context of this
10 Commonwealth's advanced energy market.

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

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

17 (ii) Deployment of "behind-the-fence" clean,
18 advanced, energy projects at manufacturing facilities to
19 enhance their competitiveness.

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

30 (6) Seek to leverage its capital to the maximum extent

1 possible. The authority may work with the investment and
2 developer community to leverage its funds by requiring
3 significant matching funds for all projects except in rare
4 circumstances and, when allowable, by investing in projects
5 that are likely to yield significant returns. The authority
6 shall consider ways to manage and increase its own funding,
7 including exploration of a variety of potential avenues,
8 including, but not limited to, Federal grants, private
9 foundation grants and legislative appropriations.

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

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

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

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

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

26 (2) Potential to enhance Pennsylvania's energy security
27 and diversity.

28 (3) Ability to demonstrate significant environmental
29 benefits.

30 (4) Potential either to promote energy conservation or

1 to increase energy production from alternative energy
2 sources.

3 (5) Potential economic benefits for the Commonwealth,
4 which may be in the form of job creation, new investment,
5 savings to consumers or revenue generation for other
6 beneficiaries, such as farmers, local governments or other
7 landowners.

8 (6) Technical feasibility and cost-effectiveness of the
9 project.

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

12 § 1543. Indebtedness.

13 * * *

14 (d.1) Bonds issued from funds dedicated by the General
15 Assembly.--Bonds issued for the programs established in section
16 1515 (relating to funds dedicated by the General Assembly) shall
17 not be subject to nor shall they apply toward the aggregate
18 amount of indebtedness permitted to be incurred by the authority
19 under this section.

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

21 CHAPTER 18

22 ENERGY DEVELOPMENT AUTHORITY AND EMERGENCY POWERS

23 Sec.

24 1801. Definitions.

25 1802. Emergency petroleum product shortages.

26 1803. Energy Development Authority.

27 1804. Technical and financial support.

28 1805. Annual report.

29 1806. Powers and duties.

30 1807. Authority indebtedness.

- 1 1808. Financial assistance.
- 2 1809. Energy development plan.
- 3 1810. Exemption from taxation.
- 4 1811. Funding of authority.
- 5 1812. Limitation of powers.
- 6 1813. Audit.
- 7 § 1801. Definitions.

8 The following words and phrases when used in this chapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Authority." The Energy Development Authority established in
12 section 1803 (relating to Energy Development Authority).

13 "Board." The board of directors of the Energy Development
14 Authority.

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

18 "Cost." The expense of construction and the expense of
19 acquisition of all structures, lands and other property rights
20 and interests in land necessary to a project. The term also
21 includes the expense of demolishing, removing or relocating any
22 buildings or structures on lands acquired or to be acquired,
23 including the following:

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

26 (2) sewage treatment, waste treatment and pollution
27 control facilities;

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

29 (4) all labor, materials, machinery and equipment and
30 fixtures;

- 1 (5) financing charges;
- 2 (6) interest on all bonds prior to and during
- 3 construction and for a period of one year thereafter;
- 4 (7) engineering, financial and legal services;
- 5 (8) plans, specifications, studies, surveys necessary or
- 6 incidental to determining the feasibility or practicability
- 7 of constructing a project;
- 8 (9) administrative expenses;
- 9 (10) reserves for interest and for extension,
- 10 enlargements, additions and improvements; and
- 11 (11) such other expenses as may be necessary or
- 12 incidental to the construction of the project and the placing
- 13 of the same in operation.

14 "Person." A natural person, corporation, partnership,

15 association or municipality of this Commonwealth and any public

16 corporation, authority or body whatsoever.

17 "Petroleum product." Motor gasoline, kerosene, distillates,

18 including Number 2 fuel oil, and diesel fuel.

19 "Project." An activity entirely or largely conducted in this

20 Commonwealth which cannot be effectively funded using privately

21 available resources, relating to:

22 (1) basic and applied research concerning energy use,

23 renewable energy resources and energy extraction,

24 transmission, storage or conversion;

25 (2) limited scale demonstration of innovative or

26 commercially unproven technology to promote the production,

27 use or conservation of energy;

28 (3) activities to promote or remove obstacles to the

29 utilization and transportation of Pennsylvania energy

30 resources, including, but not limited to, limited scale

1 synthetic fuel facilities and the conversion or technological
2 improvement of industrial, commercial or agricultural systems
3 to utilize Pennsylvania coal or renewable energy resources,
4 except that the facility shall not unreasonably interfere
5 with private waste recycling industries;

6 (4) activities designed to further development or
7 deployment of:

8 (i) alternative energy sources, including those
9 defined in the act of November 30, 2004 (P.L.1672,
10 No.213), known as the Alternative Energy Portfolio
11 Standards Act;

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

15 (iii) energy efficiency technology; and

16 (iv) energy conservation measures.

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

19 § 1802. Emergency petroleum product shortages.

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

30 (b) Designation.--Upon proclamation of a state of emergency,

1 the Governor shall designate a State agency to conduct emergency
2 allocation measures during the period of the declared emergency.

3 Emergency allocation measures may consist of:

4 (1) the administration of any emergency allocation
5 powers delegated to the Commonwealth by the President or any
6 Federal agency;

7 (2) the implementation of a set-aside program, for not
8 more than 1% of the petroleum products available for use in
9 this Commonwealth, to alleviate hardship or meet emergency
10 needs. A set-aside program shall be established in conformity
11 with any Federal law, regulations or executive orders
12 governing petroleum allocation and shall apply only to
13 petroleum products found to be in a substantial shortage;

14 (3) measures to reduce demand for or consumption of
15 gasoline; and

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

19 (c) Regulations.--The agency designated by the Governor to
20 conduct emergency measures may, during the period of the
21 emergency, adopt rules and regulations pursuant to section 204
22 of the act of July 31, 1968 (P.L.769, No.240), referred to as
23 the Commonwealth Documents Law. Any regulation adopted during a
24 state of emergency shall be automatically rescinded upon the
25 expiration of the emergency.

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

30 (1) In order to monitor supplies of petroleum products,

1 the agency may require recordkeeping and periodic reports
2 from petroleum suppliers which shall, to the maximum extent
3 possible, employ federally mandated reports and records,
4 avoid duplicative reporting and recordkeeping and minimize
5 paperwork, recordkeeping and reporting requirements.

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

8 (3) When a petroleum supplier or a company providing
9 information to a petroleum supplier claims that the
10 information requested by the agency is confidential,
11 proprietary, market or trade secret information or when the
12 information is deemed confidential pursuant to this section,
13 the agency shall not disclose the information publicly or to
14 any other governmental agency unless the information is
15 aggregated as part of a statistical report in which the data
16 and individual companies supplying the data cannot be
17 identified.

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

29 (5) In order to obtain information required pursuant to
30 this subsection, the agency designated by the Governor to

1 monitor supplies of petroleum products may receive or share
2 information from any other Federal, State or local agency.
3 The agency shall provide the same confidentiality to
4 information recovered as is provided by the supplying agency.

5 § 1803. Energy Development Authority.

6 (a) Establishment.--There is established the Energy
7 Development Authority.

8 (b) Board of directors.--The authority shall be governed and
9 all of its corporate powers exercised by a board of directors
10 which shall be composed of the following individuals:

11 (1) The Secretary of Environmental Protection or a
12 designee.

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

14 (3) The Secretary of Community and Economic Development
15 or a designee.

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

17 (5) Four legislative appointees.

18 (i) Appointments are as follows:

19 (A) One individual appointed by the President
20 pro tempore of the Senate.

21 (B) One individual appointed by the Minority
22 Leader of the Senate.

23 (C) One individual appointed by the Majority
24 Leader of the House of Representatives.

25 (D) One individual appointed by the Minority
26 Leader of the House of Representatives.

27 (ii) Legislative appointees shall serve at the
28 pleasure of the appointing authority.

29 (iii) An individual appointed to the board pursuant
30 to subparagraph (i) may not be a member of the General

1 Assembly or staff of a member of the General Assembly.

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

5 (d) Compensation.--Members of the board of directors shall
6 be entitled to no compensation for their services as members but
7 shall be entitled to reimbursement for all necessary expenses
8 incurred in connection with the performance of their duties as
9 members.

10 (e) Meetings and quorum.--The board of directors shall
11 provide for the holding of regular and special meetings. The
12 consent of at least five directors, with at least four of the
13 consenting directors being appointed under subsection (b)(5),
14 shall be required to adopt any action on behalf of the
15 authority.

16 § 1804. Technical and financial support.

17 (a) General rule.--The Governor shall designate a State
18 agency to provide staff services to the authority for its
19 administration of this chapter, including technical services to
20 assist the authority in carrying out the provisions of this
21 chapter.

22 (b) Personnel and services.--The authority may utilize
23 personnel and services from any departments, agencies or other
24 authorities of the Commonwealth whose facilities and services
25 may be useful to the authority for implementation of this
26 chapter upon approval of the departments, agencies or
27 authorities.

28 (c) Reimbursement.--The authority may make reimbursement to
29 an agency, department or authority of the Commonwealth for
30 expenses incurred in providing services or use of facilities

1 acquired by the authority.

2 (d) Construction.--Notwithstanding 66 Pa.C.S. § 511
3 (relating to disposition, appropriation and disbursement of
4 assessments and fees) or any other law of this Commonwealth, no
5 funds received as reimbursement under this section shall be
6 deemed to be in substitution for funds from another source, nor
7 shall the funds reduce assessments to any utility. No funds
8 shall lapse at termination of a fiscal year, nor shall the funds
9 reduce any assessment by the Pennsylvania Public Utility
10 Commission in any fiscal year.

11 § 1805. Annual report.

12 The board shall make an annual report of the activities of
13 the authority for the preceding fiscal year, not later than 120
14 days after the conclusion of the fiscal year, to the Governor
15 and General Assembly. Each report shall contain a statement of
16 activities and a complete operating and financial statement
17 covering the operations of the authority.

18 § 1806. Powers and duties.

19 The authority, as a public corporation and governmental
20 instrumentality exercising public powers of the Commonwealth, is
21 granted, shall have and may exercise all powers necessary or
22 appropriate to carry out and effectuate the purposes of this
23 chapter, including, but not limited to, the power:

24 (1) To conduct examinations and investigations and take
25 testimony under oath or affirmation at public or private
26 hearings on matters material for its information and
27 necessary to determination and approval of energy development
28 project loan applications.

29 (2) To have existence until its existence shall be
30 terminated by law.

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

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

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

7 (6) To seek technical determinations on project
8 applications.

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

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

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

24 (10) To purchase and make payments of mortgages on any
25 project where the purchase or payment is necessary to protect
26 a loan or loan guarantee previously made by the authority and
27 to sell, transfer, convey or assign any such mortgage. Money
28 so used by the authority in the purchase of any mortgage, or
29 any payments thereon, shall be withdrawn from the Energy
30 Development Fund, and money derived from the sale of any

1 mortgages shall be deposited by the authority in the fund.

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

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

8 (13) To guarantee loans of money made to persons, upon
9 the terms and conditions which the authority may prescribe,
10 relating to projects.

11 (14) To make grants to fund projects.

12 (15) To collect fees and charges determined to be
13 reasonable as to activities undertaken in furtherance of the
14 purposes of this chapter.

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

18 (17) To pledge, hypothecate or otherwise encumber
19 revenues or receipts of the authority as security for bonds
20 of the authority.

21 (18) To receive appropriations and apply for and accept
22 grants, gifts, donations, bequests and settlements from a
23 public or private source. Money received by the authority
24 shall be deposited in the Energy Development Fund and used
25 for the purposes of the authority.

26 (19) To promote and facilitate the sale through this
27 Commonwealth of alternative energy credits as defined in the
28 act of November 30, 2004 (P.L.1672, No.213), known as the
29 Alternative Energy Portfolio Standards Act. This paragraph
30 shall not be construed as conferring on the Commonwealth the

1 authority to purchase, acquire or sell alternative energy
2 credits.

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

7 (21) To enter into agreements with the Department of
8 Community and Economic Development and the Ben Franklin
9 Technology Development Authority to provide for the transfer
10 of funds from the Energy Development Fund or other funds
11 under the control of the authority, to be used for energy-
12 related activities and to fulfill the obligations of a bond
13 for alternative energy projects, including:

14 (i) ~~\$56 million~~ AN AMOUNT UP TO 9% OF THE REVENUES <—
15 IN THE FUND, BUT NO MORE THAN \$56,000,000 to the Ben
16 Franklin Technology Development Authority to support
17 early-stage activities, including incubator support
18 services, management support, translational research
19 activities and early-stage capital. The funds designated
20 for these purposes shall be transferred to the Ben <—
21 Franklin Technology Partners, and the guidelines in
22 effect on the effective date of this chapter for
23 determining project eligibility and to award project or
24 program financing shall be used by the Ben Franklin
25 Technology Partners in providing financial support called
26 for in this paragraph. ALLOCATED TO THE BEN FRANKLIN <—
27 TECHNOLOGY PARTNERS. FUNDING SHALL BE SUBJECT TO THE
28 GUIDELINES ESTABLISHED BY THE BEN FRANKLIN TECHNOLOGY
29 DEVELOPMENT AUTHORITY. THE GUIDELINES SHALL BE POSTED ON
30 ITS OFFICIAL INTERNET WEBSITE.

1 (ii) ~~\$44 million~~ AN AMOUNT UP TO 8% OF THE REVENUES <—
2 IN THE FUND, BUT NOT MORE THAN \$44,000,000 to create a
3 rebate program to lower the retail price of new energy-
4 efficient appliances.

5 (iii) ~~\$200 million~~ AN AMOUNT UP TO 33% OF THE <—
6 REVENUES IN THE FUND, BUT NOT MORE THAN \$200,000,000
7 toward rebates and grants for solar photovoltaic, other
8 solar electric or solar thermal installations. PROJECTS <—
9 AND TOWARD PRODUCTION INCENTIVES TO ENCOURAGE THE
10 ESTABLISHMENT OR EXPANSION OF SOLAR MANUFACTURING
11 OPERATIONS IN THIS COMMONWEALTH. NOT LESS THAN 65% OF THE
12 TOTAL FUNDING UNDER THIS SUBSECTION SHALL BE USED FOR
13 REBATES AND GRANTS FOR SOLAR PHOTOVOLTAIC, OTHER SOLAR
14 ELECTRIC OR SOLAR THERMAL PROJECTS. PROJECTS INSTALLING
15 SOLAR EQUIPMENT MANUFACTURED IN THIS COMMONWEALTH ARE
16 ELIGIBLE FOR REBATES AND GRANTS UP TO 15% GREATER THAN
17 COMPARABLE PROJECTS INSTALLING EQUIPMENT MANUFACTURED
18 OUTSIDE THIS COMMONWEALTH.

19 (iv) ~~\$300 million~~ AN AMOUNT UP TO 50% OF THE <—
20 REVENUES IN THE FUND, BUT NO MORE THAN \$300,000,000 to
21 provide grants and loans for alternative energy projects,
22 alternative fuels and demand-side management and
23 efficiency measures for all customer classes, including,
24 but not limited to, energy-efficient building
25 construction, equipment and renovation.

26 § 1807. Authority indebtedness.

27 (a) General rule.--The authority shall have the power and is
28 authorized from time to time, by resolution of the authority and
29 subject to the written approval of the Governor, to issue its
30 negotiable bonds in such principal amount as, in the opinion of

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

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

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

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

23 (e) Bond requirements.--

24 (1) The bonds of the authority shall be of the series,
25 bear date or dates, mature at the time or times not exceeding
26 40 years from their respective dates, bear interest at the
27 rate or rates, payable at least semiannually, be in the
28 denominations, be in the form, either coupon or fully
29 registered without coupons, carry the registration,
30 exchangeability and interchangeability privileges, by payment

1 in medium of payment and at the place or places, be subject
2 to the terms of redemption, with or without premium, and be
3 entitled to the priorities in the revenue or receipts of the
4 authority as the resolution or resolutions of the authority
5 may provide.

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

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

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

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

28 (f) Bond provisions.--A resolution or resolutions
29 authorizing bonds may contain provisions, which shall be part of
30 the contract with holders of the bonds, as to any of the

1 following:

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

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

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

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

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

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

12 (7) Any other or additional agreements with the holders
13 of the bonds.

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

22 (1) the application of funds and the safeguarding of
23 funds on hand or on deposit;

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

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

30 (h) Negotiable instruments.--The bonds shall have all the

1 qualities of negotiable instruments under 13 Pa.C.S. Div. 3
2 (relating to negotiable instruments).

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

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

27 (1) By mandamus or other suit, action or proceeding at
28 law or in equity, enforce all rights of the bondholders,
29 including the right to require the authority to carry out any
30 agreement as to or pledge of the revenues or receipts of the

1 authority and to require the authority to carry out any other
2 agreements with or for the benefit of the bondholders and to
3 perform its and their duties under this chapter.

4 (2) Bring suit upon the bonds.

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

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

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

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

20 (l) Trustee powers.--

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

1 shall deposit all money in a separate account and apply the
2 same in the manner as the court shall direct.

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

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

17 § 1808. Financial assistance.

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

24 (b) Confirmation of other funding.--Prior to committing
25 itself to provide financial assistance under this section, the
26 authority shall have determined that the person requesting the
27 assistance has obtained from other responsible and independent
28 sources, including the Federal Government, banks, savings and
29 loan associations or otherwise, a firm commitment for all other
30 funds, over and above the amount of financial assistance

1 requested from the authority, which in the aggregate shall be
2 sufficient to cover the entire cost of the project.

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

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

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

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

28 § 1809. Energy development plan.

29 (a) Contents.--In order to devise the most effective
30 strategy for providing the financial and technical assistance

1 authorized in this chapter, the authority shall publish by
2 August 15, 1983, a plan for the allocation and distribution of
3 financial and technical assistance. The energy development plan
4 shall do all of the following:

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

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

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

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

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

29 (6) Establish application procedures and criteria for
30 granting financial and technical assistance.

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

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

10 § 1810. Exemption from taxation.

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

19 (b) Interest on certain bonds.--The authority may covenant
20 and consent that the interest on certain of its bonds shall be
21 includable, under the Internal Revenue Code of 1986 (Public Law
22 99-514, 26 U.S.C. § 1 et seq.) or any subsequent corresponding
23 internal revenue laws of the United States, in the gross income
24 of the holders of the bonds to the same extent and in the same
25 manner that the interest on bills, bonds, notes or other
26 obligations of the United States is includable in the gross
27 income of the holders thereof under the Internal Revenue Code of
28 1986. Notwithstanding any covenant or consent of the authority,
29 the exemption provided in subsection (a) shall not be affected.

30 § 1811. Funding of authority.

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

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

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

20 § 1812. Limitation of powers.

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

1 alter or limit the rights and powers of the authority in any
2 manner that would be inconsistent with the continued maintenance
3 and operation of any project or the improvement of the project,
4 or that would be inconsistent with the due performance of any
5 agreements between the authority and the Federal agency, and the
6 authority shall continue to have and may exercise all powers
7 granted under this chapter, as long as the same shall be
8 necessary or desirable for carrying out the purposes of this
9 chapter and the purposes of the United States pertaining to the
10 construction, acquisition or improvement of any project or
11 portion of the project.

12 § 1813. Audit.

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

18 Section 4. The following apply:

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

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

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

29 (1) Except as otherwise provided in 64 Pa.C.S. Ch. 18,
30 all activities initiated under Article XXVIII-C of The

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

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

19 (3) Paragraph (2) does not apply to the following
20 provisions:

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

23 (ii) 64 Pa.C.S. § 1802(d)(4).

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

25 (iv) 64 Pa.C.S. § 1806(2), (14), (19), (20) and
26 (21).

27 (v) 64 Pa.C.S. § 1807 (a) and (c).

28 (vi) 64 Pa.C.S. § 1811(a).

29 Section 6. Upon dedication of funding by the General
30 Assembly pursuant to 64 Pa.C.S. § 1515, the State Treasurer

1 shall publish a notice to that effect in the Pennsylvania
2 Bulletin.

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

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

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