

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, WALKO, YOUNGBLOOD, HORNAMAN, MANDERINO, MELIO, SCAVELLO AND K. SMITH, NOVEMBER 15, 2007

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 11, 2008

AN ACT

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

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

13 Section 1. Section 1543(b) and (d) of Title 64 of the
14 Pennsylvania Consolidated Statutes are amended by adding
15 paragraphs to read:

16 § 1543. Indebtedness.

17 * * *

18 (b) Program limitations.--Indebtedness incurred by the
19 authority under subsection (a) shall not, in aggregate, exceed

1 any of the following:

2 * * *

3 (9) \$250,000,000 for the programs established in section
4 1559 (relating to Clean Energy Program).

5 (10) \$600,000,000 for the programs established in
6 section 1806(21) (relating to powers and duties).

7 * * *

8 (d) Exception.--Subsection (c) shall not apply to the
9 aggregate amount of indebtedness incurred by the authority,
10 including through the issuance of bonds, for the following
11 programs:

12 * * *

13 (4) The programs established in section 1559.

14 (5) The programs established in section 1806(21).

15 * * *

16 Section 2. Title 64 is amended by adding a section to read:
17 § 1559. Clean Energy Program.

18 (a) Establishment.--There is hereby established a program to
19 be known as the Clean Energy Program, and the program shall
20 provide financial assistance for the preparation of sites
21 located within this Commonwealth for future development.

22 (b) Funding.--An amount not to exceed \$20,000,000 of the
23 gross receipts collected during each fiscal year under Article
24 XI of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
25 Reform Code of 1971, shall be annually appropriated from the
26 General Fund to the authority for the program established in
27 this section.

28 (c) Uses of funds by authority.--With respect to funding
29 under subsection (b), the authority shall have the powers and
30 duties to fulfill the obligations of a bond for alternative

1 energy projects, including, but not limited to, funding for
2 alternative and renewable energy projects, such as:

3 (1) An amount up to 20% of the revenues transferred to
4 the authority, but no more than \$50,000,000 to provide loans
5 to venture capital partnerships. The funds designated for
6 this purpose shall be transferred to the New Pennsylvania
7 Venture Capital Investment Program under section 1557
8 (relating to New Pennsylvania Venture Capital Investment
9 Program).

10 (2) An amount up to 20% of the revenues transferred to
11 the authority, but no more than \$50,000,000 to provide grants
12 and loans for working capital, equipment acquisition,
13 construction and site preparation.

14 (3) An amount up to 60% of the revenues transferred to
15 the authority, but no more than \$150,000,000 to provide
16 grants and loans to businesses and municipalities, municipal
17 authorities, redevelopment authorities and industrial
18 development agencies for infrastructure preparation and
19 development of high efficient advanced energy business sites.

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

22 (1) Promote the diversification of energy generation by
23 supporting a broad cross section of clean energy
24 technologies.

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

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

30 (4) Establish the goal of expanding the market for clean

1 energy technologies, services and fuels. In pursuit of this
2 goal, the authority shall emphasize the following investment
3 priorities:

4 (i) Attracting or expanding clean energy
5 manufacturing operations in this Commonwealth.

6 (ii) Deployment of clean energy projects at
7 manufacturing facilities to enhance their
8 competitiveness.

9 For purposes of this subsection, "clean energy" shall
10 mean alternative energy sources as defined in the act of
11 November 30, 2004 (P.L.1672, No.213), known as the
12 Alternative Energy Portfolio Standards Act, and
13 alternative fuels, including those defined in the act of
14 November 29, 2004 (P.L.1376, No.178), known as the
15 Alternative Fuels Incentive Act.

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

26 (6) Seek to leverage its capital to the maximum extent
27 possible. The authority may work with the investment and
28 developer community to leverage its funds by requiring
29 significant matching funds for all projects except in rare
30 circumstances and, when allowable, by investing in projects

1 that are likely to yield significant returns. The authority
2 shall consider ways to manage and increase its own funding,
3 including exploration of a variety of potential avenues,
4 including, but not limited to, Federal grants, private
5 foundation grants and legislative appropriations.

6 (7) Require, except in rare circumstances, all projects
7 to demonstrate that they have obtained significant matching
8 funds, including, but not limited to, funds from Federal,
9 State, local or private sources.

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

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

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

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

22 (2) Potential to enhance this Commonwealth's energy
23 security and diversity.

24 (3) Ability to demonstrate significant environmental
25 benefits.

26 (4) Potential to either promote energy conservation or
27 to increase energy production from alternative energy
28 sources.

29 (5) Potential economic benefits for the Commonwealth,
30 which may be in the form of job creation, new investment,

1 savings to consumers or revenue generation for other
2 beneficiaries, such as farmers, local governments or other
3 landowners.

4 (6) Technical feasibility and cost-effectiveness of the
5 project.

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

7 CHAPTER 18

8 ENERGY DEVELOPMENT AUTHORITY AND EMERGENCY POWERS

9 Sec.

10 1801. Definitions.

11 1802. Emergency petroleum product shortages.

12 1803. Energy Development Authority.

13 1804. Technical and financial support.

14 1805. Annual report.

15 1806. Powers and duties.

16 1807. Authority indebtedness.

17 1808. Financial assistance.

18 1809. Energy development plan.

19 1810. Exemption from taxation.

20 1811. Funding of authority.

21 1812. Limitation of powers.

22 1813. Audit.

23 § 1801. Definitions.

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

27 "Authority." The Energy Development Authority established in
28 section 1803 (relating to Energy Development Authority).

29 "Board." The board of directors of the Energy Development
30 Authority.

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

4 "Cost." The expense of construction and the expense of
5 acquisition of all structures, lands and other property rights
6 and interests in land necessary to a project. The term also
7 includes the expense of demolishing, removing or relocating any
8 buildings or structures on lands acquired or to be acquired,
9 including the following:

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

12 (2) sewage treatment, waste treatment and pollution
13 control facilities;

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

15 (4) all labor, materials, machinery and equipment and
16 fixtures;

17 (5) financing charges;

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

20 (7) engineering, financial and legal services;

21 (8) plans, specifications, studies, surveys necessary or
22 incidental to determining the feasibility or practicability
23 of constructing a project;

24 (9) administrative expenses;

25 (10) reserves for interest and for extension,
26 enlargements, additions and improvements; and

27 (11) such other expenses as may be necessary or
28 incidental to the construction of the project and the placing
29 of the same in operation.

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

1 association or municipality of this Commonwealth and any public
2 corporation, authority or body whatsoever.

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

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

8 (1) basic and applied research concerning energy use,
9 renewable energy resources and energy extraction,
10 transmission, storage or conversion;

11 (2) limited scale demonstration of innovative or
12 commercially unproven technology to promote the production,
13 use or conservation of energy;

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

22 (4) activities designed to further development or
23 deployment of:

24 (i) alternative energy sources, including those
25 defined in the act of November 30, 2004 (P.L.1672,
26 No.213), known as the Alternative Energy Portfolio
27 Standards Act;

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

1 (iii) energy efficiency technology; and

2 (iv) energy conservation measures.

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

5 § 1802. Emergency petroleum product shortages.

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

16 (b) Designation.--Upon proclamation of a state of emergency,
17 the Governor shall designate a State agency to conduct emergency
18 allocation measures during the period of the declared emergency.
19 Emergency allocation measures may consist of:

20 (1) the administration of any emergency allocation
21 powers delegated to the Commonwealth by the President or any
22 Federal agency;

23 (2) the implementation of a set-aside program, for not
24 more than 1% of the petroleum products available for use in
25 this Commonwealth, to alleviate hardship or meet emergency
26 needs. A set-aside program shall be established in conformity
27 with any Federal law, regulations or executive orders
28 governing petroleum allocation and shall apply only to
29 petroleum products found to be in a substantial shortage;

30 (3) measures to reduce demand for or consumption of

1 gasoline; and

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

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

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

16 (1) In order to monitor supplies of petroleum products,
17 the agency may require recordkeeping and periodic reports
18 from petroleum suppliers which shall, to the maximum extent
19 possible, employ federally mandated reports and records,
20 avoid duplicative reporting and recordkeeping and minimize
21 paperwork, recordkeeping and reporting requirements.

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

24 (3) When a petroleum supplier or a company providing
25 information to a petroleum supplier claims that the
26 information requested by the agency is confidential,
27 proprietary, market or trade secret information or when the
28 information is deemed confidential pursuant to this section,
29 the agency shall not disclose the information publicly or to
30 any other governmental agency unless the information is

1 aggregated as part of a statistical report in which the data
2 and individual companies supplying the data cannot be
3 identified.

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

15 (5) In order to obtain information required pursuant to
16 this subsection, the agency designated by the Governor to
17 monitor supplies of petroleum products may receive or share
18 information from any other Federal, State or local agency.
19 The agency shall provide the same confidentiality to
20 information recovered as is provided by the supplying agency.

21 § 1803. Energy Development Authority.

22 (a) Establishment.--There is established the Energy
23 Development Authority.

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

27 (1) The Secretary of Environmental Protection or a
28 designee.

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

30 (3) The Secretary of Community and Economic Development

1 or a designee.

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

3 (5) Four legislative appointees.

4 (i) Appointments are as follows:

5 (A) One individual appointed by the President
6 pro tempore of the Senate.

7 (B) One individual appointed by the Minority
8 Leader of the Senate.

9 (C) One individual appointed by the Majority
10 Leader of the House of Representatives.

11 (D) One individual appointed by the Minority
12 Leader of the House of Representatives.

13 (ii) Legislative appointees shall serve at the
14 pleasure of the appointing authority.

15 (iii) An individual appointed to the board pursuant
16 to subparagraph (i) may not be a member of the General
17 Assembly or staff of a member of the General Assembly.

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

21 (d) Compensation.--Members of the board of directors shall
22 be entitled to no compensation for their services as members but
23 shall be entitled to reimbursement for all necessary expenses
24 incurred in connection with the performance of their duties as
25 members.

26 (e) Meetings and quorum.--The board of directors shall
27 provide for the holding of regular and special meetings. The
28 consent of at least five directors, with at least four of the
29 consenting directors being appointed under subsection (b)(5),
30 shall be required to adopt any action on behalf of the

1 authority.

2 § 1804. Technical and financial support.

3 (a) General rule.--The Governor shall designate a State
4 agency to provide staff services to the authority for its
5 administration of this chapter, including technical services to
6 assist the authority in carrying out the provisions of this
7 chapter.

8 (b) Personnel and services.--The authority may utilize
9 personnel and services from any departments, agencies or other
10 authorities of the Commonwealth whose facilities and services
11 may be useful to the authority for implementation of this
12 chapter upon approval of the departments, agencies or
13 authorities.

14 (c) Reimbursement.--The authority may make reimbursement to
15 an agency, department or authority of the Commonwealth for
16 expenses incurred in providing services or use of facilities
17 acquired by the authority.

18 (d) Construction.--Notwithstanding 66 Pa.C.S. § 511
19 (relating to disposition, appropriation and disbursement of
20 assessments and fees) or any other law of this Commonwealth, no
21 funds received as reimbursement under this section shall be
22 deemed to be in substitution for funds from another source, nor
23 shall the funds reduce assessments to any utility. No funds
24 shall lapse at termination of a fiscal year, nor shall the funds
25 reduce any assessment by the Pennsylvania Public Utility
26 Commission in any fiscal year.

27 § 1805. Annual report.

28 The board shall make an annual report of the activities of
29 the authority for the preceding fiscal year, not later than 120
30 days after the conclusion of the fiscal year, to the Governor

1 and General Assembly. Each report shall contain a statement of
2 activities and a complete operating and financial statement
3 covering the operations of the authority.

4 § 1806. Powers and duties.

5 The authority, as a public corporation and governmental
6 instrumentality exercising public powers of the Commonwealth, is
7 granted, shall have and may exercise all powers necessary or
8 appropriate to carry out and effectuate the purposes of this
9 chapter, including, but not limited to, the power:

10 (1) To conduct examinations and investigations and take
11 testimony under oath or affirmation at public or private
12 hearings on matters material for its information and
13 necessary to determination and approval of energy development
14 project loan applications.

15 (2) To have existence until its existence shall be
16 terminated by law.

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

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

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

23 (6) To seek technical determinations on project
24 applications.

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

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

30 (9) To take title by foreclosure or otherwise to a

1 project or other property pledged, mortgaged, encumbered or
2 otherwise available as security for a project financed in
3 whole or in part by the authority, whether by loan, loan
4 guarantee or otherwise where acquisition is necessary to
5 protect the interests of the authority regarding a project,
6 to pay costs arising out of the acquisition from money held
7 in the Energy Development Fund and to sell, transfer and
8 convey all or any portion of a project to a responsible
9 buyer.

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

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

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

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

27 (14) To make grants to fund projects.

28 (15) To collect fees and charges determined to be
29 reasonable as to activities undertaken in furtherance of the
30 purposes of this chapter.

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

4 (17) To pledge, hypothecate or otherwise encumber
5 revenues or receipts of the authority as security for bonds
6 of the authority.

7 (18) To receive appropriations and apply for and accept
8 grants, gifts, donations, bequests and settlements from a
9 public or private source. Money received by the authority
10 shall be deposited in the Energy Development Fund and used
11 for the purposes of the authority.

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

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

23 (21) To enter into agreements with the Department of
24 Community and Economic Development and the Ben Franklin
25 Technology Development Authority to provide for the transfer
26 of funds from the Energy Development Fund or other funds
27 under the control of the authority, to be used for energy-
28 related activities and to fulfill the obligations of a bond
29 for alternative energy projects, including:

30 (i) An amount up to 9% of the revenues in the fund,

1 but no more than \$56,000,000 to the Ben Franklin
2 Technology Development Authority to support early-stage
3 activities, including incubator support services,
4 management support, translational research activities and
5 early-stage capital. The funds designated for these
6 purposes shall be allocated to the Ben Franklin
7 Technology Partners. Funding shall be subject to the
8 guidelines established by the Ben Franklin Technology
9 Development Authority. The guidelines shall be posted on
10 its official Internet website.

11 (ii) An amount up to 8% of the revenues in the fund,
12 but not more than \$44,000,000 to create a rebate program
13 to lower the retail price of new energy-efficient
14 appliances.

15 (iii) An amount up to 33% of the revenues in the
16 fund, but not more than \$200,000,000 toward rebates and
17 grants for solar photovoltaic, other solar electric or
18 solar thermal projects and toward production incentives
19 to encourage the establishment or expansion of solar
20 manufacturing operations in this Commonwealth. Not less
21 than 65% of the total funding under this subsection shall
22 be used for rebates and grants for solar photovoltaic,
23 other solar electric or solar thermal projects. Projects
24 installing solar equipment manufactured in this
25 Commonwealth are eligible for rebates and grants up to
26 15% greater than comparable projects installing equipment
27 manufactured outside this Commonwealth.

28 (iv) An amount up to 50% of the revenues in the
29 fund, but no more than \$300,000,000 to provide grants and
30 loans for alternative energy projects, alternative fuels

1 and demand-side management and efficiency measures for
2 all customer classes, including, but not limited to,
3 energy-efficient building construction, equipment and
4 renovation.

5 (v) An amount not to exceed \$45,000,000 of the gross
6 receipts collected during each fiscal year under Article
7 XI of the act of March 4, 1971 (P.L.6, No.2), known as
8 the Tax Reform Code of 1971, shall be annually
9 appropriated from the General Fund to the authority for
10 the programs established under this subsection.

11 § 1807. Authority indebtedness.

12 (a) General rule.--The authority shall have the power and is
13 authorized from time to time, by resolution of the authority and
14 subject to the written approval of the Governor, to issue its
15 negotiable bonds in such principal amount as, in the opinion of
16 the authority, shall be necessary to provide sufficient funds
17 for any of its corporate purposes, the establishment of reserves
18 to secure the bonds and all other expenditures of the authority
19 incident to and necessary or convenient to carry out its
20 corporate purposes and powers. The aggregate principal amount of
21 bonds and notes of the authority shall not exceed \$800,000,000
22 outstanding at any one time.

23 (b) Refund or renewal.--The authority, whenever it deems it
24 expedient, shall have the power to refund or renew any bonds by
25 the issuance of new bonds whether the bonds to be refunded or
26 renewed have or have not matured. Refunding bonds shall be sold
27 and the proceeds applied to the purchase, redemption or payment
28 of the bonds to be refunded.

29 (c) No personal liability.--Neither the members of the board
30 of the authority nor any person executing the bonds shall be

1 liable personally on the bonds or be subject to any personal
2 liability or accountability by reason of the issuance thereof.

3 (d) No Commonwealth debt.--Bonds issued under the provisions
4 of this chapter shall not be deemed to constitute a debt of the
5 Commonwealth or any political subdivision or a pledge of the
6 faith and credit of the Commonwealth or any political
7 subdivision.

8 (e) Bond requirements.--

9 (1) The bonds of the authority shall be of the series,
10 bear date or dates, mature at the time or times not exceeding
11 40 years from their respective dates, bear interest at the
12 rate or rates, payable at least semiannually, be in the
13 denominations, be in the form, either coupon or fully
14 registered without coupons, carry the registration,
15 exchangeability and interchangeability privileges, by payment
16 in medium of payment and at the place or places, be subject
17 to the terms of redemption, with or without premium, and be
18 entitled to the priorities in the revenue or receipts of the
19 authority as the resolution or resolutions of the authority
20 may provide.

21 (2) The bonds shall be signed by or shall bear the
22 facsimile signature of the officers the authority shall
23 determine, and coupon bonds shall have attached to the coupon
24 bond in interest coupons bearing the facsimile signature of
25 the chairman of the authority, all as may be prescribed in
26 the resolution or resolutions of the authority.

27 (3) Bonds may be issued and delivered, notwithstanding
28 that one or more of the officers signing the bonds shall have
29 ceased to be the officer or officers at the time when the
30 bonds shall actually be delivered.

1 (4) Bonds may be sold at public or private sales for the
2 price or prices as the authority shall determine. Pending the
3 preparation of the definitive bonds, interim receipts may be
4 issued to the purchaser or purchasers of the bonds and may
5 contain such terms and conditions as the authority may
6 determine.

7 (5) Any bond reciting in substance that it has been
8 issued by the authority to aid in the financing of one or
9 more projects to accomplish the public purposes of this
10 chapter shall be conclusively deemed in proceedings involving
11 the validity or enforceability of the bond or security for
12 the bond to have been issued for that purpose.

13 (f) Bond provisions.--A resolution or resolutions
14 authorizing bonds may contain provisions, which shall be part of
15 the contract with holders of the bonds, as to any of the
16 following:

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

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

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

21 (4) The setting aside of reserves or sinking funds and
22 the regulation and disposition of the reserves or sinking
23 funds.

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

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

27 (7) Any other or additional agreements with the holders
28 of the bonds.

29 (g) Indentures and other agreements.--The authority may
30 enter into indentures or other agreements, with a bank or trust

1 company in or outside this Commonwealth, including a Federal
2 agency, and may assign and pledge all or any of the revenues or
3 receipts of the authority. The indenture or other agreement may
4 contain such provisions as may be customary in such instruments
5 or as the authority may authorize, including, but without
6 limitation, provisions as to:

7 (1) the application of funds and the safeguarding of
8 funds on hand or on deposit;

9 (2) the rights and remedies of the trustee and the
10 holders of the bonds, which may include restrictions upon the
11 individual right of action of the holders; and

12 (3) the terms and provisions of the bonds or any
13 additional bonds or the resolutions authorizing the issuance
14 of the bonds or additional bonds.

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

18 (i) Rights and remedies.--The rights and remedies conferred
19 upon or granted to the bondholders shall be in addition to and
20 not in limitation of any rights and remedies lawfully granted to
21 the bondholders by the resolution or resolutions providing for
22 the issuance of bonds or by any indenture or other agreement
23 under which the bonds may be issued.

24 (j) Default.--In the event that the authority shall default
25 in the payment of principal of premium, if any, or interest on
26 any issue of bonds after the principal, premium or interest
27 shall become due, whether at maturity, upon call for redemption
28 or otherwise and the default shall continue for a period of 30
29 days, or in the event that the authority shall fail or refuse to
30 comply with the provisions of this chapter or shall default in

1 any agreement made with the holders of the bonds, the holders of
2 25% in aggregate principal amount of the bonds then outstanding
3 of the issues, by instrument or instruments filed in the Office
4 of the Prothonotary of the Commonwealth Court, may appoint a
5 trustee to represent the bondholders for the purposes provided
6 in this subsection. The trustee and any trustee under any
7 indenture or other agreement may, and upon written request of
8 the holders of 25% or other percentage as may be specified in
9 any indenture or other agreement, in principal amount of the
10 particular issues of bonds then outstanding shall, in the
11 trustee's own name:

12 (1) By mandamus or other suit, action or proceeding at
13 law or in equity, enforce all rights of the bondholders,
14 including the right to require the authority to carry out any
15 agreement as to or pledge of the revenues or receipts of the
16 authority and to require the authority to carry out any other
17 agreements with or for the benefit of the bondholders and to
18 perform its and their duties under this chapter.

19 (2) Bring suit upon the bonds.

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

23 (4) By action or suit in equity enjoin any acts or
24 things which may be unlawful or in violation of the rights of
25 the bondholders.

26 (5) By notice in writing to the authority, declare all
27 bonds due and payable and if all defaults shall be made good,
28 then with the consent of the holders of 25% or such other
29 percentage as may be specified in any indenture or other
30 agreement of the principal amount of bonds then outstanding,

1 to announce the declaration and its consequences.

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

5 (l) Trustee powers.--

6 (1) A trustee appointed by the court or trustee acting
7 under an indenture or other agreement, and whether or not all
8 bonds have been declared due and payable, shall be entitled
9 as of right to the appointment of a receiver, who may
10 exercise dominion over the mortgages or other security held
11 by or available to the authority or any part of the
12 authority, the revenues or receipts from which are or may be
13 applicable to the payment of the bonds so in default, and
14 collect and receive all revenues arising after default from
15 the bonds in the same manner as the authority might do and
16 shall deposit all money in a separate account and apply the
17 same in the manner as the court shall direct.

18 (2) In any suit, action or proceeding by a trustee, the
19 fees, the counsel fees and expenses of the trustee and of the
20 receiver, if any, and all costs and disbursements allowed by
21 the court shall be a first charge on any revenues and
22 receipts derived from the mortgages of the authority or other
23 security held by or available to the authority, the revenues
24 or receipts from which are or may be applicable to the
25 payment of the bonds in default.

26 (3) A trustee shall also have all of the power necessary
27 or appropriate for the exercise of any function specifically
28 set forth in this section, in any indenture or other
29 agreement or incident to the general representation of the
30 bondholders in the enforcement and protection of their

1 rights.

2 § 1808. Financial assistance.

3 (a) General rule.--When it has been determined by the
4 authority, upon application and hearing in the manner provided
5 in this section, that the granting of financial assistance will
6 accomplish the public purposes of this chapter, the authority
7 may contract to make financial assistance available in an amount
8 not in excess of the cost of the project.

9 (b) Confirmation of other funding.--Prior to committing
10 itself to provide financial assistance under this section, the
11 authority shall have determined that the person requesting the
12 assistance has obtained from other responsible and independent
13 sources, including the Federal Government, banks, savings and
14 loan associations or otherwise, a firm commitment for all other
15 funds, over and above the amount of financial assistance
16 requested from the authority, which in the aggregate shall be
17 sufficient to cover the entire cost of the project.

18 (c) Time period and interest.--Any loan, lease, sale,
19 guarantee or other agreement with response to a project shall be
20 for the period of time and shall bear interest at the rate as
21 shall be determined by the authority and may be secured by
22 mortgage on and security interest in the project which the loan,
23 lease, guarantee or other sale agreement relates, or with
24 respect to any other property of the obligor, or any other
25 security which the authority determines to be necessary.

26 (d) Manner of payment.--Money made available for projects by
27 the authority shall be withdrawn from the appropriate funds and
28 paid over to the obligor in the manner provided and prescribed
29 by the resolutions, rules and regulations of the authority, the
30 loan, lease, sale, guarantee or other agreement and the

1 indenture or agreement of trust, if any, relating to the
2 project.

3 (e) Deposit in appropriate funds.--All payments of interest
4 on funds made available for projects and the principal amount
5 shall be deposited by or on behalf of the authority in the
6 appropriate funds.

7 (f) Application form.--Prior to disbursing any funds for, or
8 committing itself to guarantee any indebtedness relating to, or
9 providing technical assistance for a project, the authority
10 shall receive an application in the form and having the content
11 the authority may prescribe from the person seeking the
12 assistance.

13 § 1809. Energy development plan.

14 (a) Contents.--In order to devise the most effective
15 strategy for providing the financial and technical assistance
16 authorized in this chapter, the authority shall publish by
17 August 15, 1983, a plan for the allocation and distribution of
18 financial and technical assistance. The energy development plan
19 shall do all of the following:

20 (1) Place maximum reliance upon allocation and
21 distribution strategies that exploit the use of other
22 available Federal, State, local and private financial
23 support.

24 (2) Allocate appropriated authority funds, money made
25 available from payment of principal and interest received by
26 the authority not otherwise payable to other creditors or
27 bondholders and other funds available to the authority to
28 projects whose likelihood or implementation would be
29 diminished unless financial and technical assistance from the
30 authority is made available.

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

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

8 (5) Identify the various classes of projects to be
9 provided with financial and technical assistance and allocate
10 available authority funds among these classes. Specifically,
11 the authority shall consider increasing coal production and
12 the use of renewable fuels and in energy efficiency in
13 buildings and industry in establishing its priorities.

14 (6) Establish application procedures and criteria for
15 granting financial and technical assistance.

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

18 (b) Public hearings.--The authority shall hold public
19 hearings at locations throughout this Commonwealth to receive
20 comments upon and suggestions for the improvement of the energy
21 development plan. These hearings shall be concluded within 90
22 days of the publication of the initial plan. Not more than 90
23 days following the completion of hearings, the authority shall
24 promulgate its final energy development plan.

25 § 1810. Exemption from taxation.

26 (a) Exemption.--The effectuation of the authorized purposes
27 of the authority is for the benefit of the people of this
28 Commonwealth and since the authority will as a government
29 instrumentality of the Commonwealth be performing essential
30 government functions in effectuating the purposes, the bonds or

1 other evidences of indebtedness issued by the authority, their
2 transfer and the income from the bonds shall at all times be
3 free from taxation within this Commonwealth.

4 (b) Interest on certain bonds.--The authority may covenant
5 and consent that the interest on certain of its bonds shall be
6 includable, under the Internal Revenue Code of 1986 (Public Law
7 99-514, 26 U.S.C. § 1 et seq.) or any subsequent corresponding
8 internal revenue laws of the United States, in the gross income
9 of the holders of the bonds to the same extent and in the same
10 manner that the interest on bills, bonds, notes or other
11 obligations of the United States is includable in the gross
12 income of the holders thereof under the Internal Revenue Code of
13 1986. Notwithstanding any covenant or consent of the authority,
14 the exemption provided in subsection (a) shall not be affected.
15 § 1811. Funding of authority.

16 (a) Energy Development Fund.--A special account is hereby
17 created in the State Treasury to be known as the Energy
18 Development Fund. The fund shall be used to prepare the energy
19 development plan, to pay for initial administrative costs
20 associated with initial bond issues, to make grants for limited
21 research and pursuant to this chapter to establish such reserves
22 as in the judgment of the authority with respect to loans
23 guaranteed or bonds issued by the authority may be necessary or
24 desirable or to accomplish any other of its corporate purposes.

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

29 (c) Excess funds.--At any time that the authority shall
30 determine that funds held for the credit of the Energy

1 Development Fund are in excess of the amount needed to carry out
2 the purposes of this chapter, the authority shall take such
3 action as shall be required to release the excess from the fund
4 and transfer the same to the General Fund of the State Treasury.

5 § 1812. Limitation of powers.

6 The Commonwealth pledges to and agrees with any person or
7 Federal agency subscribing to or acquiring the bonds to be
8 issued by the authority for the construction of any project or
9 part of the project, that the Commonwealth will not limit or
10 alter adversely the rights vested in the authority until all
11 bonds at any time issued, together with the interest, are fully
12 met and discharged. The Commonwealth further pledges to and
13 agrees with any Federal agency that if the Federal agency shall
14 construct or contribute funds for the construction of any
15 project or any portion of the project, the Commonwealth will not
16 alter or limit the rights and powers of the authority in any
17 manner that would be inconsistent with the continued maintenance
18 and operation of any project or the improvement of the project,
19 or that would be inconsistent with the due performance of any
20 agreements between the authority and the Federal agency, and the
21 authority shall continue to have and may exercise all powers
22 granted under this chapter, as long as the same shall be
23 necessary or desirable for carrying out the purposes of this
24 chapter and the purposes of the United States pertaining to the
25 construction, acquisition or improvement of any project or
26 portion of the project.

27 § 1813. Audit.

28 The accounts and books of the authority, including its
29 receipts, disbursements, contracts, mortgages, investments and
30 other matters relating to its finances, operation and affairs

1 shall be examined and audited every two years by the Auditor
2 General.

3 Section 4. The following apply:

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

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

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

14 (1) Except as otherwise provided in 64 Pa.C.S. Ch. 18,
15 all activities initiated under Article XXVIII-C of The
16 Administrative Code of 1929 shall continue and remain in full
17 force and effect and may be completed under 64 Pa.C.S. Ch.
18 18. Orders, regulations, rules and decisions which were made
19 under Article XXVIII-C of The Administrative Code of 1929 and
20 which are in effect on the effective date of section 2(2) of
21 this act shall remain in full force and effect until revoked,
22 vacated or modified under 64 Pa.C.S. Ch. 18. Contracts,
23 obligations and collective bargaining agreements entered into
24 under Article XXVIII-C of The Administrative Code of 1929 are
25 not affected nor impaired by the repeal of Article XXVIII-C
26 of The Administrative Code of 1929.

27 (2) Except as set forth in paragraph (3), any difference
28 in language between 64 Pa.C.S. Ch. 18 and Article XXVIII-C of
29 The Administrative Code of 1929 is intended only to conform
30 to the style of the Pennsylvania Consolidated Statutes and is

1 not intended to change or affect the legislative intent,
2 judicial construction or administration and implementation of
3 Article XXVIII-C of The Administrative Code of 1929.

4 (3) Paragraph (2) does not apply to the following
5 provisions:

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

8 (ii) 64 Pa.C.S. § 1802(d)(4).

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

10 (iv) 64 Pa.C.S. § 1806(2), (14), (19), (20) and
11 (21).

12 (v) 64 Pa.C.S. § 1807 (a) and (c).

13 (vi) 64 Pa.C.S. § 1809(a).

14 (vii) 64 Pa.C.S. § 1811(a).

15 ~~Section 6. Upon dedication of funding by the General~~ <—
16 ~~Assembly pursuant to 64 Pa.C.S. § 1515, the State Treasurer~~
17 ~~shall publish a notice to that effect in the Pennsylvania~~
18 ~~Bulletin.~~

19 ~~Section 7. This act shall take effect as follows:~~

20 ~~(1) This section and section 6 of this act shall take~~
21 ~~effect immediately.~~

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

24 SECTION 6. THIS ACT SHALL TAKE EFFECT IMMEDIATELY. <—