

---

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

HOUSE BILL

No. 1672 Session of  
2013

---

INTRODUCED BY R. MILLER, MILLARD, WATSON, CALTAGIRONE, GINGRICH,  
COHEN AND EVERETT, SEPTEMBER 3, 2013

---

REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
SEPTEMBER 3, 2013

---

AN ACT

1 Providing for the testing of new, environmentally beneficial and  
2 energy efficient technologies within various State agencies.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the State Agency  
7 Green Technology Implementation Act.

8 Section 2. Legislative intent.

9 The General Assembly finds as follows:

10 (1) It is the responsibility of the General Assembly to  
11 ensure that the resources of this Commonwealth are used in a  
12 manner consistent with energy efficiency and environmental  
13 stewardship.

14 (2) As technology advances, opportunities arise to test  
15 new technologies within this Commonwealth's State agencies in  
16 order to increase energy conservation, reduce costs and  
17 promote demand-side management technologies.

1           (3) Through the testing of new, energy efficient  
2 technologies, the Department of General Services will gain  
3 the ability to identify new ways to reduce costs and improve  
4 efficiency, creating an avenue for implementation of all  
5 State agencies upon the recommendation of the Secretary of  
6 General Services and the testing agency.

7 Section 3. Definitions.

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

11          "Department." The Department of General Services of the  
12 Commonwealth.

13          "Secretary." The Secretary of General Services of the  
14 Commonwealth.

15          "State agency." An executive agency, an independent agency,  
16 a State-affiliated entity or a State-related institution as  
17 defined by 62 Pa.C.S. § 103 (relating to definitions), including  
18 the unified judicial system and its officers and agencies, that  
19 for the purposes of this act will be testing a new technology,  
20 product or process in order to determine its effectiveness in  
21 promoting energy conservation, energy efficiency or demand-side  
22 management technologies.

23 Section 4. Authority of secretary.

24          The following shall apply:

25           (1) If, in the course of the secretary's official  
26 duties, the secretary determines that the use of a certain  
27 technology, product or process would promote energy  
28 conservation, energy efficiency or demand-side management  
29 technologies, the secretary may authorize a State agency to  
30 test the technology, product or process by using it in the

1 agency's operations on a trial basis. The following shall  
2 apply:

3 (i) The purpose of a test program shall be to  
4 validate the effectiveness and feasibility of the  
5 technology, product or process in reducing energy usage  
6 and costs or promoting demand-side management  
7 technologies. No agency shall undertake testing of any  
8 technology, product or process unless the business entity  
9 manufacturing or marketing the technology, product or  
10 process demonstrates that:

11 (A) use of such technology, product or process  
12 by the State agency will not adversely affect safety;

13 (B) sufficient research and development has  
14 occurred to warrant participation in the test  
15 program;

16 (C) the technology, product or process has  
17 potential for commercialization not later than two  
18 years following the completion of the test program by  
19 a State agency under this section; and

20 (D) use of such technology, product or process  
21 by the State agency will not adversely affect  
22 performance or warranties of any other installed  
23 equipment or materials.

24 (ii) If the secretary finds that using the  
25 technology, product or process would be feasible in the  
26 operations of a State agency and would not have a  
27 detrimental effect on the operations, the secretary, with  
28 the approval of the Governor, may authorize a State  
29 agency to accept delivery of the technology, product or  
30 process and to undertake such a test program.

1           (2) The secretary may not authorize a State agency to  
2 test a technology, product or process unless the business  
3 entity or entities benefiting from the field testing pay all  
4 of the associated costs.

5           (3) The secretary may not authorize a State agency to  
6 test a technology, product or process unless the business  
7 entity benefiting from the field testing assumes all risks of  
8 liability associated with testing the technology, product or  
9 process and undertakes the responsibility to indemnify the  
10 Commonwealth for all claims, including environmental and tort  
11 claims.

12           (4) The secretary may not authorize a State agency to  
13 test a technology, product or process unless the technology  
14 or product being tested has been certified by an approved,  
15 independent, nationally recognized testing or certification  
16 program that the technology, product or process will produce  
17 energy savings at the level it claims and under conditions  
18 similar to the test to be conducted. The following shall  
19 apply:

20           (i) The business entity manufacturing or marketing  
21 the technology, product or process shall provide proof of  
22 its independent, nationally recognized testing or  
23 certification in a form and manner as determined by the  
24 department, and the department shall accept and approve  
25 of the testing or certification before testing may take  
26 place at a State agency.

27           (ii) Standards for qualifications of an independent  
28 third party entity shall be determined by the department.

29           (5) If the secretary determines that the test program  
30 sufficiently demonstrates that the technology, product or

1 process reduces energy usage and costs or promotes demand-  
2 side management technologies, the secretary, with the  
3 approval of the Governor and the administrative head of the  
4 testing agency, may include the technology, product or  
5 process on a department Statewide requirements contract or,  
6 upon the request of the testing agency or other agency,  
7 procure the item in accordance with 62 Pa.C.S. (relating to  
8 procurement). The secretary may encourage implementation in  
9 any or all State agencies. Testing criteria, protocol,  
10 metrics and goals shall be developed by the department. At a  
11 minimum, the testing shall be designed to replicate the  
12 results attested to by the approved, independent, nationally  
13 recognized testing or certification program.

14 Section 5. State agency responsibilities.

15 The following shall apply:

16 (1) The testing agency shall maintain records related to  
17 test programs, as required by the secretary and determined by  
18 the department.

19 (2) All proprietary information derived from test  
20 programs shall be exempt from the provisions of the act of  
21 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know  
22 Law.

23 (3) The testing of a technology, product or process  
24 shall have a demonstration period of no less than 30 days and  
25 no more than 60 calendar days unless the secretary determines  
26 that the specific technology warrants a longer demonstration  
27 period.

28 (4) Testing methodology and results shall not be  
29 considered proprietary information.

30 Section 6. Purchasing.

1 Acquisition of any technology, product or process for  
2 purposes of the test program established under this act shall  
3 not be deemed to be a purchase under the provisions of State  
4 procurement law. Upon implementation of a technology, product or  
5 process at a State agency after the testing period has expired,  
6 the department may make such purchases for implementation as are  
7 authorized under 62 Pa.C.S. (relating to procurement). State  
8 agencies whose purchasing is not provided for by the department  
9 are authorized to make such purchases as applicable under this  
10 act.

11 Section 7. Commonwealth endorsement.

12 Testing of a technology, product or process at a State agency  
13 as provided for in this act shall not constitute approval by the  
14 Commonwealth or otherwise endorsement of the technology, product  
15 or process or of the business entity by the Commonwealth, nor  
16 shall the Commonwealth be used in marketing, advertisement or  
17 promotional activity related to the technology, product or  
18 process or of the business entity. A claim of endorsement by the  
19 Commonwealth without the approval of the Secretary and the  
20 Governor shall result in the business entity's disqualification  
21 from further testing under this act.

22 Section 8. Business entity clarification.

23 For purposes of this act, a business entity that allows the  
24 testing of its technology, product or process in a State agency  
25 shall not be considered a State advisor or State consultant as  
26 defined in the act of July 19, 1957 (P.L.1017, No.451), known as  
27 the State Adverse Interest Act.

28 Section 9. Effective date.

29 This act shall take effect in 60 days.