

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

AS REPORTED FROM COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 2, 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.

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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 "DEMAND-SIDE MANAGEMENT." THE MANAGEMENT OF CUSTOMER
12 CONSUMPTION OF ELECTRICITY OR THE DEMAND FOR ELECTRICITY THROUGH
13 THE IMPLEMENTATION OF: <--

14 (1) ENERGY EFFICIENCY TECHNOLOGIES, MANAGEMENT PRACTICES
15 OR OTHER STRATEGIES IN RESIDENTIAL, COMMERCIAL, INSTITUTIONAL
16 OR GOVERNMENT CUSTOMERS THAT REDUCE ELECTRICITY CONSUMPTION
17 BY THOSE CUSTOMERS;

18 (2) LOAD MANAGEMENT OR DEMAND RESPONSE TECHNOLOGIES,
19 MANAGEMENT PRACTICES OR OTHER STRATEGIES IN RESIDENTIAL,
20 COMMERCIAL, INDUSTRIAL, INSTITUTIONAL AND GOVERNMENT
21 CUSTOMERS THAT SHIFT ELECTRIC LOAD FROM PERIODS OF HIGHER
22 DEMAND TO PERIODS OF LOWER DEMAND; OR

23 (3) INDUSTRIAL BY-PRODUCT TECHNOLOGIES CONSISTING OF THE
24 USE OF A BY-PRODUCT FROM AN INDUSTRIAL PROCESS, INCLUDING THE
25 REUSE OF ENERGY FROM EXHAUST GASES OR OTHER MANUFACTURING BY-
26 PRODUCTS THAT ARE USED IN THE DIRECT PRODUCTION OF
27 ELECTRICITY AT THE FACILITY OF A CUSTOMER.

28 "Department." The Department of General Services of the
29 Commonwealth.

30 "Secretary." The Secretary of General Services of the

1 Commonwealth.

2 "State agency." An executive agency, an independent agency,
3 a State-affiliated entity or a State-related institution as
4 defined by 62 Pa.C.S. § 103 (relating to definitions), including
5 the unified judicial system and its officers and agencies, that
6 for the purposes of this act will be testing a new technology,
7 product or process in order to determine its effectiveness in
8 promoting energy conservation, energy efficiency or demand-side
9 management ~~technologies~~. <--

10 Section 4. Authority of secretary.

11 The following shall apply:

12 (1) If, in the course of the secretary's official
13 duties, the secretary determines that the use of a certain
14 technology, product or process would promote energy
15 conservation, energy efficiency or demand-side management
16 ~~technologies~~, the secretary may authorize a State agency to <--
17 test the technology, product or process by using it in the
18 agency's operations on a trial basis. The following shall
19 apply:

20 (i) The purpose of a test program shall be to
21 validate the effectiveness and feasibility of the
22 technology, product or process in reducing energy usage
23 and costs or promoting demand-side management
24 ~~technologies~~. No agency shall undertake testing of any <--
25 technology, product or process unless the business entity
26 manufacturing or marketing the technology, product or
27 process demonstrates that:

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

30 (B) sufficient research and development has

1 occurred to warrant participation in the test
2 program;

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

7 (D) use of such technology, product or process
8 by the State agency will not adversely affect
9 performance or warranties of any other installed
10 equipment or materials.

11 (ii) If the secretary finds that using the
12 technology, product or process would be feasible in the
13 operations of a State agency and would not have a
14 detrimental effect on the operations, the secretary, with
15 the approval of the Governor, may authorize a State
16 agency to accept delivery of the technology, product or
17 process and to undertake such a test program.

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

22 (3) The secretary may not authorize a State agency to
23 test a technology, product or process unless the business
24 entity benefiting from the field testing assumes all risks of
25 liability associated with testing the technology, product or
26 process and undertakes the responsibility to indemnify the
27 Commonwealth for all claims, including environmental and tort
28 claims.

29 (4) The secretary may not authorize a State agency to
30 test a technology, product or process unless the technology

1 or product being tested has been certified by an approved,
2 independent, nationally recognized testing or certification
3 program that the technology, product or process will produce
4 energy savings at the level it claims and under conditions
5 similar to the test to be conducted. The following shall
6 apply:

7 (i) The business entity manufacturing or marketing
8 the technology, product or process shall provide proof of
9 its independent, nationally recognized testing or
10 certification in a form and manner as determined by the
11 department, and the department shall accept and approve
12 of the testing or certification before testing may take
13 place at a State agency.

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

16 (5) If the secretary determines that the test program
17 sufficiently demonstrates that the technology, product or
18 process reduces energy usage and costs or promotes demand-
19 side management technologies, ~~the secretary, with the~~ <--

20 ~~approval of the Governor~~ AND THE TESTING AGENCY DETERMINES <--

21 THAT THE PRODUCT MEETS ITS INDEPENDENT REQUIREMENTS, IF ANY,

22 FOR TECHNOLOGY, PRODUCT OR PROCESS TESTING AND ACCEPTANCE,

23 THE SECRETARY and the administrative head of the testing

24 agency, ~~may include~~ MAY PROCURE the technology, product or <--

25 process ~~on a department Statewide requirements contract or,~~ <--

26 ~~upon the request of the testing agency or other agency,~~

27 ~~procure the item~~ in accordance with 62 Pa.C.S. (relating to

28 procurement)-, INCLUDING THROUGH ADDITION OF THE TECHNOLOGY, <--

29 PRODUCT OR PROCESS TO A DEPARTMENT STATEWIDE REQUIREMENTS

30 CONTRACT OF PROPER SCOPE IF DETERMINED TO BE APPROPRIATE BY

1 THE SECRETARY. TESTING AGENCIES WITH INDEPENDENT PROCUREMENT
2 AUTHORITY UNDER 62 PA.C.S. MAY PROCURE THE ITEM OR AUTHORIZE
3 ITS USE IN ACCORDANCE WITH THAT AUTHORITY. The secretary may
4 encourage implementation in any or all State agencies.
5 Testing criteria, protocol, metrics and goals shall be
6 developed by the department. At a minimum, the testing shall
7 be designed to replicate the results attested to by the
8 approved, independent, nationally recognized testing or
9 certification program.

10 (6) IF THE SECRETARY DETERMINES THAT THE TEST PROGRAM <--
11 DOES NOT SUFFICIENTLY DEMONSTRATE THAT THE TECHNOLOGY,
12 PRODUCT OR PROCESS REDUCES ENERGY USAGE AND COSTS OR PROMOTES
13 DEMAND-SIDE MANAGEMENT, AT THE SECRETARY'S DIRECTION, THE
14 BUSINESS ENTITY MANUFACTURING OR MARKETING THIS TECHNOLOGY,
15 PRODUCT OR PROCESS SHALL BE RESPONSIBLE FOR REMOVING THE
16 PRODUCT AND RETURNING THE AGENCY'S FACILITY BACK TO ITS
17 ORIGINAL STATUS AT THE COST OF THE BUSINESS ENTITY IN THE
18 TIME FRAME PROVIDED.

19 Section 5. State agency responsibilities.

20 The following shall apply:

21 (1) The testing agency shall maintain records related to
22 test programs, as required by the secretary and determined by
23 the department.

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

28 (3) The testing of a technology, product or process
29 shall have a demonstration period of no less than 30 days and
30 no more than ~~60~~ 200 calendar days unless the ~~secretary~~ <--

1 TESTING AGENCY determines that the specific technology <--
2 warrants a longer demonstration period.

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

5 Section 6. Purchasing.

6 Acquisition of any technology, product or process for
7 purposes of the test program established under this act shall
8 not be deemed to be a purchase under the provisions of State
9 procurement law. Upon implementation of a technology, product or
10 process at a State agency after the testing period has expired,
11 the department may make such purchases for implementation as are
12 authorized under 62 Pa.C.S. (relating to procurement). State
13 agencies whose purchasing is not provided for by the department
14 OR WHICH EXERCISE INDEPENDENT PURCHASING AUTHORITY are <--
15 authorized to make such purchases as applicable under this act
16 AND MAY FURTHER AUTHORIZE USE OF THE TECHNOLOGY, PRODUCT OR <--
17 PROCESS AS PROVIDED UNDER STATE LAW.

18 Section 7. Commonwealth endorsement.

19 Testing of a technology, product or process at a State agency
20 as provided for in this act shall not constitute approval by the
21 Commonwealth or otherwise endorsement of the technology, product
22 or process or of the business entity by the Commonwealth, nor
23 shall the Commonwealth be used in marketing, advertisement or
24 promotional activity related to the technology, product or
25 process or of the business entity. A claim of endorsement by the
26 Commonwealth without the approval of the Secretary and the
27 Governor shall result in the business entity's disqualification
28 from further testing under this act.

29 Section 8. Business entity clarification.

30 For purposes of this act, a business entity that allows the

1 testing of its technology, product or process in a State agency
2 shall not be considered a State advisor or State consultant as
3 defined in the act of July 19, 1957 (P.L.1017, No.451), known as
4 the State Adverse Interest Act.

5 Section 9. Effective date.

6 This act shall take effect in 60 days.