

No. 1986-102

AN ACT

HB 2100

Amending the act of July 2, 1984 (P.L.568, No.113), entitled "An act providing technical and financial assistance to employee-ownership groups that seek to retain or preserve jobs by restructuring an existing business into an employee-owned enterprise with a substantial prospect of future recovery; providing technical assistance on employee-ownership to existing firms and current employee-owned enterprises in Pennsylvania; and making appropriations," further providing for technical assistance, financial assistance, and criteria for evaluating applications; providing for grants; and removing provisions relating to guidelines and regulations.

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

Section 1. Sections 4, 5, 6 and 7(b) of the act of July 2, 1984 (P.L.568, No.113), known as the Employee-Ownership Assistance Program Act, are amended to read:

Section 4. Technical assistance.

(a) Authorization to advance funds.—The department is authorized to advance funds to local administrative agencies for the purpose of providing *grants and* loans to employee-ownership groups in industrial and commercial enterprises as defined in section 3 of the act of August 23, 1967 (P.L.251, No.102), known as the Industrial and Commercial Development Authority Law, for technical assistance to develop or improve an employee-owned enterprise.

(b) Eligibility.—Employee-ownership groups shall be eligible for assistance if the employees in the employee-ownership group are employed by, formerly employed by or affiliated with one of the following:

(1) Existing firms facing a threat of substantial layoffs or a plant closing and investigating a reorganization of all or some portion of the firm's business activity, at sites located within this Commonwealth, as an employee-owned enterprise. For purposes of this section "existing firm" shall include an ongoing concern, the assets of an existing company or the assets of a company which has been closed for no more than **[one year] two years** as of the date of application for the feasibility study loan.

(2) Existing firms, not necessarily facing a threat of substantial layoffs or a plant closing, but considering a conversion to an employee-owned enterprise and seeking professional services to accomplish this, if conversion to employee ownership will create net new jobs or retain existing jobs at sites within this Commonwealth.

(3) Existing firms which currently have some form of employee ownership and require professional services to insure success of the employee-owned enterprise in its effort to create net new jobs or retain existing jobs at sites within this Commonwealth.

(c) Uses.—Loans, *grants or a combination of the two* will be made to employee-ownership groups for the following purposes:

(1) Feasibility studies to investigate a reorganization or new incorporation as an employee-owned enterprise. At a minimum, the feasibility study should:

(i) Assess the market value and demand for the product produced by the plant affected by the closing or layoff.

(ii) Assess the market value and demand for other products which could be manufactured or assembled at the plant affected by the closing or layoff.

(iii) Evaluate the production costs incurred if the plant were to be operated by the employee-ownership group.

(iv) Determine whether there exists in the affected area and in the employee-ownership group, the desire and capacity to create a new production entity and to become competitive.

(2) Professional services to implement a feasibility study and other professional services to develop or insure the success of an employee-owned enterprise.

(3) *Grants for feasibility studies shall be awarded for not more than 90% of the cost of the study. Local matching shares should include, but are not limited to, individual contributions by affected employees.*

(d) Repayment.—Loans provided for feasibility studies and other professional services to employee-ownership groups to investigate a conversion to an employee-owned enterprise are subject to the following repayment **[conditions] condition**:

[(1)] If the enterprise studied is purchased or improved by the employee group, the employee group shall repay the entire amount of the loan, **[with] at no** interest, in a lump sum at the closing of the purchase of the company or within **[one year] two years** after the date of the release of the loan by the department, whichever occurs later.

[(2)] **If the enterprise studied is not purchased by the employee group within one year after the completion of the feasibility study, the applicant shall submit a final report concerning the feasibility of repaying the loan.]**

(e) Other conditions.—

(1) The applicant shall provide evidence that there is a prospect for recovery and future job growth or job retention in applications under subsection (b)(1) or a substantial prospect of job growth or job retention in applications under subsection (b)(2) and (3).

(2) Maximum State participation is **[50%] 90%** of the total cost of the technical assistance and the maximum **[loan] size of State participation** is \$100,000.

Section 5. Financial assistance.

(a) Authorization to advance funds.—The department is authorized to advance funds to local administrative agencies for the purpose of providing loans and loan guarantees to employee-owned enterprises reorganizing industrial, manufacturing and agricultural enterprises as defined in section 3 of the act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsyl-

vania Industrial Development Authority Act, for the development of employee-owned enterprises.

(b) Eligibility.—Eligibility for this assistance shall be limited to employee-ownership groups reorganizing an existing enterprise which is facing a threat of substantial layoffs or a plant closing, where adequate private financing is not available. For purposes of this subsection “existing enterprise” shall include an ongoing concern, the assets of an existing company or the assets of a company which has been closed for no more than **[one year] two years** as of the date of completion of a feasibility study.

(c) Uses.—Eligible project costs shall include land and buildings, machinery and equipment and working capital secured by accounts receivable and inventory.

(d) Debt instruments.—The financial subsidy provided should be the minimum necessary to accommodate the borrower’s financial needs. Debt instruments shall include either or both of the following:

- (1) Loans, including deferred interest and principal payments.
- (2) Loan guarantees.

(e) Security.—Funds loaned shall be secured by lien positions on collateral at the highest level of priority which can accommodate the borrower’s ability to raise sufficient debt and equity capital. When the obligation of a firm is guaranteed, the financial institution holding the obligation shall be required to adequately secure the obligation.

(f) Loan limits.—The maximum loan or guarantee is \$1,500,000 per firm. Loan funds shall not exceed 25% of the total project costs and guarantees shall not exceed 25% of the total loan value. The term of the loan shall be the shortest consistent with the needs of the firm, but no longer than 20 years. **[The interest rate on loans will be at or above the interest rate on the bonds issued to fund this act] The interest rate shall be determined by the department.**

(g) Equity requirement.—A significant equity investment by the employee-ownership group equal to at least 10% of the project cost and including substantial participation by *having* at least two-thirds of the *current* members of the employee-ownership group *employed at the project* is required to qualify for the loan or guarantee.

(h) Feasibility study.—Assistance shall not be approved without a feasibility study demonstrating a substantial prospect for job retention or future job growth and a business plan including steps to facilitate labor-management cooperation. General adherence to the plan is required to receive funding.

Section 6. Criteria for evaluating applications.

The local administrative agencies and the department shall evaluate the applications based on the following criteria:

- (1) Number of jobs retained or created in relation to the **[size of the loan] amount of financial assistance. [The loan] Financial assistance** shall not exceed a cost of \$15,000 per job created or retained.
- (2) Ability of the applicant to repay the loan and the likelihood of retaining or creating jobs.

(3) Evidence of other private financial commitments.

(4) Evidence that, without the financial assistance, other Federal, State or local public and private investment would be insufficient to finance the employee-owned enterprise.

(5) The extent to which a firm employs a significant number of employees or represents a significant portion of employment in the community.

(6) Any additional criteria specified by the department in guidelines or regulations.

Section 7. Administration of the program.

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(b) Approval by secretary.—The secretary will have full responsibility for final approval of all applications for assistance *and shall make every attempt possible to intervene as early as possible in situations which may benefit from assistance under this act. The secretary shall approve or disapprove applications within 45 days of receipt of the completed application. The secretary shall inform an applicant within 20 days of any additional information required.*

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Section 2. Section 10 of the act is repealed.

Section 3. This act shall take effect immediately.

APPROVED—The 9th day of July, A. D. 1986.

DICK THORNBURGH