

## No. 1993-64

## AN ACT

## HB 1709

Creating the Ben Franklin/IRC Partnership and providing for its powers; establishing the Ben Franklin/IRC Partnership Fund; providing for certification of industrial resource centers, for certification of Ben Franklin technology centers and for certain transfers; and making repeals.

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

Section 1. Short title.

This act shall be known and may be cited as the Ben Franklin/IRC Partnership Act.

Section 2. Legislative findings and policy.

(a) Findings.—The General Assembly finds as follows:

(1) A growing base of successful, small-to-medium-sized Commonwealth manufacturing companies is essential to the economic strength and vitality of this Commonwealth.

(2) The existence and growth of small-to-medium-sized Commonwealth manufacturing companies depends on the ability of these companies to:

(i) Reorient management practices toward modern manufacturing techniques and technologies.

(ii) Successfully compete in both domestic and foreign markets.

(iii) Identify, bench mark and adopt the best and most efficient practices and technologies.

(iv) Locate and hire a trained work force.

(3) There is a need to inform the body politic, the press, the academic and business communities and the population at large about the significance of a successful, competitive United States manufacturing industry to the quality of life, security and economic strength.

(4) There is a continuing need to promote, stimulate and encourage within this Commonwealth basic and applied scientific research and development and scientific and technological education.

(5) University-based consortia between business, universities and government provide these entities with the advanced technology research and development, training and education necessary to diversify this Commonwealth's economy and thereby stimulate this Commonwealth's economic growth.

(6) The industrial resource centers were created to support the modernization efforts of this Commonwealth's small-to-medium-sized manufacturing companies through collaborative initiatives and individual projects that apply and deploy advanced manufacturing management and production philosophies and techniques in such areas as:

(i) Production, planning and inventory control.

(ii) Quality improvement.

(iii) Plant layouts.

(iv) Factory and office automation.

(v) Technology improvements.

(vi) Work force development and other training programs.

(vii) Manufacturing strategies.

(7) The Ben Franklin technology centers were created to build partnerships and provide direct assistance to help firms develop and creatively apply techniques and related practices to such activities as:

(i) Help companies to form and grow through the development and commercialization of innovative products and services.

(ii) Help manufacturers to develop and innovatively apply new technologies and practices that make them more competitive in the global market economy.

(iii) Facilitate and support consortia of private companies, academic institutions and government agencies to collaboratively advance the state of knowledge and practices.

(iv) Facilitate and support the availability of services and col-

laborative activities throughout this Commonwealth to provide business and technical assistance.

(v) Select firms with potential for growth and facilitate and support collaborative activities and individual initiatives designed to address the needs of manufacturing and technology-oriented companies for a well-trained work force.

(b) Policy.—

(1) It is hereby declared to be the policy of the Commonwealth to promote the health, safety and general welfare of its inhabitants through its Department of Commerce by:

(i) The creation of the Ben Franklin/IRC Partnership, which shall exist for the purpose of promoting competitiveness of Commonwealth companies through interaction of technology development, modernization and training programs.

(ii) The certification of industrial resource centers, which shall exist for the purpose of strengthening the competitive position of small-to-medium-sized Commonwealth manufacturing companies through the promotion, demonstration and transmission of modern manufacturing techniques and technologies.

(iii) The certification of Ben Franklin technology centers, which shall exist for the purpose of identifying, generating, developing and refining technology innovation opportunities for Commonwealth businesses.

These purposes are hereby declared to be public purposes for which public money may be spent.

(2) It is also the policy of the Commonwealth not to duplicate or to mandate the delivery of technical and professional economic development services currently being provided or those which may be provided in the future by other economic development organizations throughout this Commonwealth.

Section 3. Definitions.

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

“Advisory board.” The Ben Franklin/IRC Partnership Advisory Board.

“Ben Franklin technology center.” A nonprofit corporation, incorporated for the purposes of identifying and generating technology innovation opportunities among Commonwealth businesses.

“Centers.” The Ben Franklin technology centers and the industrial resource centers.

“Department.” The Department of Commerce of the Commonwealth.

“Industrial resource center.” A nonprofit corporation, incorporated for the purposes of enhancing and supporting the competitive ability of Commonwealth manufacturers by helping them take advantage of and benefit from the transmission of production techniques and technologies.

“Manufacturing.” The giving of new shapes, new qualities or new combinations to matter by the application of skill and labor thereto.

“Partnership.” The Ben Franklin/IRC Partnership.

“Partnership board.” The board of directors of the Ben Franklin/IRC Partnership.

“Private sector funds.” Monetary or in-kind support from private businesses, corporations, individuals, trade associations, foundations and federally and locally supported grant programs.

“Secretary.” The Secretary of Commerce of the Commonwealth.

“Small-to-medium-sized Commonwealth manufacturing company.” A Pennsylvania manufacturing company which meets the small business size standards established by the United States Small Business Administration.  
Section 4. Ben Franklin/IRC Partnership.

(a) Creation.—A body corporate and politic, to be known as the Ben Franklin/IRC Partnership, is hereby created as a public authority and instrumentality of the Commonwealth. This authority shall exercise the powers of the Commonwealth as an agency of the Commonwealth.

(b) Members.—The partnership shall be composed of the following members:

(1) The secretary.

(2) A representative of the Governor’s Office with responsibilities for technology, to be appointed by the Governor.

(3) Five representatives from the manufacturing or advanced technology business sector to be appointed by the Governor, at least two of whom shall be representatives of small-to-medium-sized businesses.

(4) Two representatives from the education sector to be appointed by the Governor, one of whom shall be a president or board member of a four-year college or university and one of whom shall be a president or board member of an institution that provides vocational instruction.

(5) A representative from organized labor to be appointed by the Governor.

(6) The chairman of the Milrite Council.

(7) Four representatives of the General Assembly appointed as follows:

(i) One representative appointed by the President pro tempore of the Senate.

(ii) One representative appointed by the Minority Leader of the Senate.

(iii) One representative appointed by the Speaker of the House of Representatives.

(iv) One representative appointed by the Minority Leader of the House of Representatives.

(c) Chair.—The secretary shall chair the partnership board and shall be authorized to designate an officer or employee within the department in accordance with section 6(c) to chair partnership board meetings in his absence.

(d) Terms.—

(1) The secretary and the representative of the Governor's Office with responsibilities for technology shall, for as long as they hold their respective positions, serve on the partnership board for terms of four years, the terms to run concurrently with that of the Governor.

(2) Those remaining members of the partnership board initially appointed by the Governor shall serve for the following term of years:

(i) Two representatives from the private sector, one representative from the education sector and the labor representative shall serve terms of four years.

(ii) Two representatives from the private sector and one representative from the education sector shall serve for terms of three years.

(iii) One representative from the private sector shall serve a term of two years.

(3) The representatives of the General Assembly shall serve terms of two years, such terms to run concurrently with the term of the legislative session.

All of their respective successors shall serve for terms of four years or until their respective successors shall be duly appointed by the Governor. Any member appointed to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he is to succeed.

(e) Compensation.—The members shall receive no compensation for their services but shall be reimbursed for their expenses actually incurred by them in the performance of their duties under this act.

Section 5. Powers and duties of partnership.

(a) General rule.—The partnership shall have the following powers and duties:

(1) To promote, stimulate and encourage competitiveness through interaction of technology development, deployment, modernization and education and training programs.

(2) To monitor the development of State and regional plans to maximize coordination and cooperation between the centers.

(3) To ensure that the activities of the centers are coordinated to the greatest possible extent with other organizations responsible for these four spheres of business assistance:

(i) Technology assistance.

(ii) Business finance.

(iii) Business development.

(iv) Education and training.

(4) To coordinate efforts to identify and pursue Federal and State funding opportunities, including opportunities to assist defense-based firms in converting to nondefense activities.

(5) To adopt bylaws, regulations and guidelines dealing with the

organization, meetings, activities and other considerations as it may deem appropriate and consistent.

(6) To make contracts of every name and nature and to execute all instruments necessary or convenient for the carrying on of its business.

(7) To conduct examinations and investigations on any relevant material for its information.

(8) To review the financial and disclosure information submitted by the centers and request an independent audit of the center's records.

(9) To appoint subcommittees, as needed.

(10) To sue and be sued, plead and be impleaded, complain and defend in all courts.

(11) To approve funding allocations to centers.

(12) To accept funds from various sources, including, but not limited to:

(i) Separate State appropriations to the Ben Franklin technology centers.

(ii) Separate State appropriations to the industrial resource centers.

(iii) Any other State appropriations, Federal funds, royalties, gifts, grants, bequests, devises and private funds.

(13) To comply with Federal legislation and regulations.

(b) Debt restriction.—Notwithstanding any other provisions of this act, the partnership shall not have the authority to issue any bonds, notes or any other obligation evidencing a debt or liability of the partnership, the Commonwealth or any of its political subdivisions.

#### Section 6. Partnership board.

(a) Organization.—The powers of the partnership shall be exercised by a board consisting of the members of the partnership. Within 90 days after the effective date of this act, the partnership board shall meet and organize. The secretary shall be the chair and chief executive officer. The partnership board shall elect a secretary and treasurer from their number. At the first meeting in each year thereafter, they shall elect from their number a secretary and treasurer.

(b) Quorum.—A majority of the members shall constitute a quorum of the partnership board for the purpose of organizing the partnership and conducting the business thereof, and all action shall be taken by a vote of a majority of the members present, unless specified otherwise in the bylaws of the partnership or in this act. Only members or their designees who are physically present at a meeting shall count toward a quorum of the partnership board.

(c) Designees.—Each public officer of the partnership board may designate an officer or employee of the Commonwealth to represent him at meetings of the partnership board. Each designee may lawfully vote and otherwise act on behalf of the member of the partnership board for whom he constitutes the designee. The designation shall be in writing delivered to the partnership and shall continue in effect until revoked or amended in writing

delivered to the partnership.

(d) Staff services.—The department shall provide an executive director and staff services to the partnership for its administration of this act, including review of the proposals submitted to the partnership by the advisory board.

#### Section 7. Fund.

(a) Establishment.—There is hereby established in the State Treasury a special fund to be known as the Ben Franklin/IRC Partnership Fund into which shall be deposited any State appropriations to the centers, any other State appropriations for a purpose related to this act, Federal funds, royalties, gifts, grants, bequests, devises, private funds and funds from any other source for the purposes of this act. Funds appropriated by the General Assembly for the Ben Franklin Partnership Program will be used solely for the Ben Franklin Partnership Program and funds appropriated by the General Assembly for the industrial resource centers will be used solely for the industrial resource centers. Any other moneys, including Federal funds, which are earmarked for a specific program or purpose must be allocated to that program or purpose.

(b) Appropriation of moneys.—Moneys in the fund, including Federal funds, must be annually appropriated by the General Assembly for the purposes set forth in this act.

#### Section 8. Ben Franklin/IRC Partnership Advisory Board.

(a) Creation.—There is hereby created within the department the Ben Franklin/IRC Partnership Advisory Board.

(b) Members.—The advisory board shall be composed of the following members:

- (1) The chair of the board of each industrial resource center.
- (2) The chair of the board of each of the Ben Franklin technology centers.
- (3) The chair of the board of the Economic Planning and Development Council.
- (4) The State director of the small business development centers.
- (5) The president of the Pennsylvania Economic Development Association.

(c) Chair.—The advisory board shall be chaired by two representatives, one of whom shall be selected by the chairs of the boards of the industrial resource centers and one of whom shall be selected by the chairs of the boards of the Ben Franklin technology centers. These cochairs shall attend and fully participate in the discussions held at all partnership board meetings, in order to convey to the partnership board the views of the advisory board.

(d) Votes.—For voting purposes, there shall exist 11 total votes. Four of the votes shall be equally divided among the industrial resource center chairs. Four of the votes shall be equally divided among the Ben Franklin technology center chairs. The three remaining votes shall be equally divided among the chair of the board of the Economic Planning and Development Commission,

the State director of the small business development centers and the president of the Pennsylvania Economic Development Association.

(e) Term.—All members of the advisory board shall serve for as long as they continue to hold the positions outlined above.

(f) Compensation.—The advisory board members shall receive no compensation for their services but shall be reimbursed for their expenses actually incurred by them in the performance of their duties under this act.

(g) Purpose.—The advisory board shall facilitate discussion among the organizations represented to promote better coordination of services and opportunities.

(h) Staff support.—The staff to the partnership shall provide staff support to the advisory board.

#### Section 9. Duties of advisory board.

The advisory board shall:

- (1) Make recommendations to the partnership.
- (2) Issue periodic reports.
- (3) Sponsor and conduct conferences and studies.
- (4) Collect and disseminate information.
- (5) Develop strategies designed to coordinate the efforts of the centers, promote joint funding proposals for each of the centers and develop strategies designed to facilitate the sharing of information and the best and most efficient manufacturing practices.

The duties of the advisory board shall not include the review and approval of annual funding proposals and allocations for each of the centers.

#### Section 10. Industrial resource centers.

An industrial resource center shall:

- (1) Serve manufacturing industries in this Commonwealth.
- (2) Offer manufacturers comprehensive assistance which may include, but is not limited to:
  - (i) The capacity to help manufacturing firms evaluate those elements which are critical to their competitive ability, such as the need for implementation of process technology, the need for continuous improvement in quality and understanding the nature of existing and future global markets.
  - (ii) The ability to assist companies in identifying and applying appropriate technologies.
  - (iii) The ability to transmit products and techniques to improve the manufacturing process.
  - (iv) An information service designed to provide manufacturers with practical data on the availability and capability of commercially available processes and technologies.
  - (v) The development of demonstration sites which manufacturers can visit to learn about and evaluate technologies.
  - (vi) Providing manufacturers with services designed to help them better understand as well as apply modern manufacturing techniques



and concepts.

(vii) Working with the department and other State agencies and local or regional organizations in the implementation of economic development plans.

(viii) Providing manufacturers with marketing strategies and assistance in training and workforce development.

(3) Represent a consortium of interest designed to meet the needs of industry in its particular region.

(4) Be an independent nonprofit institution overseen by a regional board of directors comprising private industry, economic development and university representatives, with at least 50% representation from private industry.

(5) Complement and cooperate with every other center and shall make every effort to share expertise and clientele to develop a strong Statewide network.

#### Section 11. Ben Franklin technology centers.

A Ben Franklin technology center shall:

(1) Act to assist companies and regions to identify and develop local technology opportunities which make significant contributions to this Commonwealth's economy.

(2) Offer businesses comprehensive assistance which may include, but not be limited to:

(i) Development and strengthening of joint research and development efforts, including facilities for advanced technologies activities, equipment, personnel, land and related activities, which will lead to new technologies which will create or preserve jobs.

(ii) Providing training and curriculum development related to advanced technology in order to provide a skilled work force to secure employment in advanced technology industries.

(iii) Technical assistance and technology transfer activities on an areawide or Statewide basis to transfer research and development activities into the marketplace.

(iv) Assistance through small business incubators, including, but not limited to, space services and technical assistance.

(v) Market development, feasibility studies and other activities related to increasing jobs in advanced technology industries.

(vi) Staff support for advanced technology councils or other mechanisms to encourage labor, business, university and government linkages in promoting advanced technology industrial diversification.

(vii) Facilitate establishment of technology parks, which will serve as locations for facilities devoted to research and development and technology-intensive light manufacturing.

(3) Represent a consortium of interest designed to meet the needs of businesses in their particular regions.

(4) Be an independent nonprofit institution overseen by a regional

board of directors comprising economic development, university and private industry participants, with at least 50% representation from private industry.

(5) Complement and cooperate with every other center and shall make every effort to share expertise and clientele to develop a strong Statewide network.

#### Section 12. Certification.

(a) Power to review and certify.—The partnership shall have the power to review and certify all applications for regional industrial resource centers, industry-specific industrial resource centers and Ben Franklin technology centers. The standards for certification of each type of center shall be developed by the partnership by regulation.

(b) Existing centers.—Centers in existence and in receipt of funds from the department as of the date this act becomes effective are hereby deemed certified.

(c) Modification or revocation.—The partnership shall have the power to certify centers or to modify or revoke their certifications consistent with the rules and regulations to be promulgated by the partnership. The partnership also shall have the power to change the number of regions or change the minimum service boundary within a given region. These actions shall require a two-thirds majority vote of the partnership board.

#### Section 13. Applications for and approval of grants to centers.

The partnership is hereby authorized to make grants to certified centers; however, before any grant may be made, the certified center shall submit a funding proposal to the partnership, and the partnership shall determine whether the funding proposal is consistent with the purposes of this act. Approval by the partnership of a certified center's individual research and development or consulting projects or financial assistance will not be required, provided such projects or financial assistance are approved by the board of the certified center and meet the requirements set forth in this act and in regulations and guidelines established by the partnership.

#### Section 14. Requirement of matching funds.

Funds in the form of a grant made to an industrial resource center or to a Ben Franklin technology center by the partnership pursuant to this act shall be matched by private sector funds on a minimum basis to be established by regulation. Private matching funds shall include, but not be limited to, monetary or in-kind support from private businesses, corporations, individuals, trade associations, foundations and federally and locally subsidized grants. For Ben Franklin technology centers only, private matching funds shall also include machinery and equipment. Private matching funds shall not include any fees received by an industrial resource center or a Ben Franklin technology center for direct business services relating to a project subsidized by the partnership or interest accrued on proceeds from any State grant.

**Section 15. Records.**

Centers shall permit authorized employees or agents of the partnership or the Commonwealth to inspect the center's books and records during regular business hours, upon the reasonable request of the partnership.

**Section 16. Reporting requirements.**

Centers shall be required to annually submit to the partnership the following:

- (1) The center's current mailing address and telephone number.
- (2) A copy of the center's current articles of incorporation and bylaws if they are amended during the previous year.
- (3) A list of the center's current officers and directors.
- (4) Financial information as the partnership may require.
- (5) Disclosure information of the center's officers and directors as the partnership may require to ensure the integrity of this act.

**Section 17. Rules and regulations.**

The partnership shall promulgate rules and regulations to carry out the purposes of this act.

**Section 18. Transfers.**

All allocations, appropriations, equipment, files, records, contracts, agreements, obligations and other materials which are used, employed or expended in connection with the powers, duties or functions of the board of the Ben Franklin Partnership Fund under the provisions of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, and the department in connection with the industrial resource centers are hereby transferred to the partnership created by this act with the same force and effect as if the allocations and appropriations have been made to and the items had been the property of the partnership in the first instance and as if the contracts, agreements and obligations had been incurred or entered into by the partnership.

**Section 19. References.**

All references to the board of the Ben Franklin Partnership Fund existing in law and not repealed by this act shall hereinafter be deemed to refer to the partnership created by this act.

**Section 20. Repeals.**

As much of section 203 as refers to the board of the Ben Franklin Partnership Fund and sections 448(n), 448(n.1) and 2503-B of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, are repealed.

**Section 21. Sunset.**

The Ben Franklin/IRC Partnership, together with its statutory functions and duties, shall terminate and go out of existence on December 31, 2000, unless reestablished or continued by the General Assembly. The Legislative Budget and Finance Committee shall be required to present to the General Assembly a report evaluating the partnership by December 31, 1999. This report shall provide the General Assembly with a recommendation as to whether the

partnership is to be continued and, if so, the changes which are suggested by the committee to improve the operation of the partnership.

Section 22. Effective date.

This act shall take effect in 120 days.

APPROVED—The 2nd day of July, A.D. 1993.

MARK S. SINGEL  
ACTING GOVERNOR