

No. 2001-32

## AN ACT

SB 549

Amending the act of December 12, 1994 (P.L.888, No.128), entitled "An act providing for the construction of six anaerobic manure digesters as demonstration projects at select locations in this Commonwealth; and providing for funding," further providing for the title, for legislative intent, for definitions, for development costs, for administration, for building and for funding.

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

Section 1. The title and sections 1, 2, 3 and 4 of the act of December 12, 1994 (P.L.888, No.128), known as the Anaerobic Manure Digesters Act, are amended to read:

## AN ACT

Providing for the **[construction of six anaerobic manure digesters as demonstration projects at select locations in this Commonwealth; and providing for funding]** *investigation, study, development and use of animal by-product management technology for normal agricultural operations.*

Section 1. Short title.

This act shall be known and may be cited as the **[Anaerobic Manure Digesters]** *Agricultural By-Product Management Technology Act.*

Section 2. Legislative findings.

The General Assembly finds and declares as follows:

(1) The development of **[anaerobic manure]** *economically feasible digesters and other animal by-product management technology* across this Commonwealth **[to reduce the nitrogen pollution caused by livestock manure]** *will enhance and encourage environmentally sound and economically feasible agricultural production practices and will result in [a public benefit.] numerous benefits to the agricultural community and society.*

(2) *The development of digesters and animal by-product management technology across this Commonwealth to produce energy, pathogen-free fertilizers, animal feed supplements and clean water will increase revenues for agricultural producers and provide economically feasible and environmentally sound methods of managing manure and other agricultural by-products and nutrients, thereby benefiting the environment, the agricultural community and society.*

(3) The purpose of this act is to **[demonstrate the practical nature and the usefulness of anaerobic manure digesters so that Pennsylvania farmers will build digesters for their own use.]** *investigate, study and advance digesters and animal by-product*

*management technologies that are environmentally sound and economically feasible and to develop programs that encourage and promote the use and development of new technologies. Such programs shall benefit the agricultural community and society. In addition, this act seeks to assist those engaged in production agriculture to comply with the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, through the use of environmentally sound animal by-product management technologies.*

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:

**“Agricultural community.”** *Persons involved in production agriculture and agricultural processing facilities.*

**“Agricultural processing facilities.”** *Facilities involved in the slaughter and/or processing of livestock or livestock products, milk or dairy products, poultry or poultry products and other facilities approved by the Department of Agriculture.*

**“Anaerobic manure digester” or “digester.”** *A machine that allows manure to decompose anaerobically, releasing methane which is used to drive an electrical generator supplying power to the farm and surplus power which can be sold to an electric utility.]*

**“Board.”** *The [Anaerobic Manure Digester] Agricultural By-Product Management Technology Board.*

**“PEO.”** *The Pennsylvania Energy Office.]*

**“By-product management technology.”** *That technology which the Agricultural By-Product Management Technology Board determines will help, assist or facilitate the reduction of potential pollutants to air or water, diminish odors and pathogens associated with and being the natural result of agricultural production, or any technology that the board determines will further the purpose of this act.*

**“Department.”** *The Department of Agriculture of the Commonwealth.*

**“Digester.”** *A process that through anaerobic or aerobic digestion, photosynthetic purification or a combination of these processes causes the decomposition of manure, animal carcasses, offal and other agricultural by-products and nutrients, resulting in the release of methane, which may be used to supply energy for onsite use and surplus energy which can be sold to electric utilities or private electric companies.*

**“Normal agricultural operation.”** *The activities, practices, equipment and procedures that farmers adopt, use or engage in, in the production and preparation for market of poultry, livestock and their products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes new activities, practices,*

*equipment and procedures consistent with technological development within the agricultural industry.*

*“Production agriculture.” The management and use of farming resources for the production of agricultural crops, livestock or livestock products, milk or dairy products, poultry or poultry products or for practices approved by the Department of Agriculture.*

*“Secretary.” The Secretary of Agriculture of the Commonwealth.*

[Section 4. Development of anaerobic manure digesters.

(a) General rule.—

(1) The Commonwealth shall finance 80% of the cost of construction of up to six anaerobic manure digesters as demonstration projects at selected working farms in this Commonwealth where livestock is raised. Farmers utilizing digesters shall pay the remaining 20% of the cost of digester construction.

(2) After two years of successful digester operation, farmers shall repay funds advanced by the Commonwealth for digester construction in equal installments over 15 years with no interest charge.

(3) Should a digester fail to operate, farmers attempting to utilize that digester shall not be required to repay funds advanced by the Commonwealth for construction.

(b) Application for demonstration projects.—An application form shall be prepared by the PEO for farmers or groups of farmers to request that a digester be built on their farms or built at a central location. On the application form, farmers or groups of farmers shall describe how they will use the digester to its maximum advantage.

(c) Inspections and demonstrations.—The following requirements shall apply to selected demonstration projects:

(1) The digesters shall be used continuously and shall be available for inspection by farmers and other members of the public.

(2) If a digester is built on a farm, the owner shall allow persons to visit at convenient times.

(3) The owner shall provide space for visitors and for appropriate research to be conducted on the digester’s operation.

(4) Where a digester is built for use by several farms, it shall be constructed to allow for maximum public viewing.

(d) Design.—Each digester shall be designed so as to eliminate the use of complex equipment or machinery to allow most of the necessary maintenance to be performed solely by the farmer.]

Section 2. The act is amended by adding a section to read:

*Section 4.1. Powers and duties of department.*

*The department has the following powers and duties:*

(1) *To develop programs which promote education, use and development of economically and environmentally feasible digesters*

*and by-product management technology. Such programs may include loan and grant programs.*

*(2) To work in concert with the board to continually evaluate emerging practices, methods and technology regarding digesters and by-product management technology.*

*(3) To promulgate regulations concerning this act and programs developed under this act. Prior to promulgation of regulations, the department shall have the power to recommend and implement interim guidelines for the purpose of facilitating the initial development of programs established under this act. Such interim guidelines shall be replaced by regulations within two years of their effective date.*

*(4) To review, with the advice of the board, program criteria and to periodically evaluate and make appropriate changes in those criteria by regulation.*

Section 3. Sections 5, 6 and 7 of the act are amended to read:

Section 5. The [Anaerobic Manure Digester] *Agricultural By-Product Management Technology* Board.

(a) Establishment.—There is established within the [PEO] *department* an [Anaerobic Manure Digester] *Agricultural By-Product Management Technology* Board.

(b) Composition.—The board shall be appointed by the Governor and shall be composed of the following:

*[(1) Two persons who own and operate on a continuous basis an anaerobic manure digester.*

*(2) One person from an electric utility.*

*(3) One soil nutrient management specialist.*

*(4) One livestock farmer who does not own a digester.*

*(5) One person from an environmental protection organization.*

*(6) One person who shall represent the public.]*

*(1) The secretary or a designee who shall serve as chairman.*

*(2) One person who owns and operates on a continuous basis a digester.*

*(3) One person who represents a by-product management technology business enterprise.*

*(4) One nutrient management specialist from the private sector who has been commercially certified pursuant to the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act.*

*(5) One person representing the Pennsylvania Association of Conservation Districts.*

*(6) One person, not part of the agricultural community, who shall represent the public.*

*(7) Two active commercial farm owners or operators, at least one representing animal agriculture.*

*(8) One representative from the agribusiness industry representing agricultural processing facilities.*

**(9) Two representatives from separate academic institutions with expertise in agricultural engineering and by-product management.**

**(10) One representative of the State Conservation Commission.**

**(11) The Secretary of the Department of Environmental Protection or a designee.**

**(12) One representative of commercial agricultural lenders.**

**(13) One representative of local government.**

**(c) Expenses of board members.—**The members of the board shall not be entitled to compensation for their services as members but shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members of the board.

**(d) Meetings.—**The board shall meet at least semiannually or more frequently if deemed necessary by the chairman.

**(e) Quorum.—**Eight of the members appointed to the board shall constitute a quorum for purposes of conducting meetings and official actions pursuant to authority given to the board under this act. No decision by the board shall be effective unless eight of the board members are actually present and a majority of those present vote to support the decision.

**(f) Application of member.—**A member of the board may apply to take part in any program administered under this act, provided all decisions regarding the program application are subject to the provisions of 65 Pa.C.S. § 1103(j) (relating to restricted activities) and the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act. If any contract or agreement is made in violation of this section, the contract or agreement shall be null and void and no action shall be maintained against the Commonwealth.

**(g) Powers and duties of board.—**The board has the following powers and duties:

**(1) To work in consultation with the department to continually evaluate advanced technology regarding economically and environmentally feasible digesters and by-product management technologies.**

**(2) To research, review and evaluate by-product management technologies that are environmentally sound and economically feasible and make recommendations to the secretary.**

**(3) To research, review and evaluate specific regional by-product reduction needs and opportunities and to recommend to the secretary appropriate by-product management technology that exists to satisfy those needs.**

**(4) To encourage cooperation among and between the agricultural community, industry and local government regarding the use and development of agricultural by-product management technologies.**

[Section 6. Digester construction.

(a) **PEO duties.**— The PEO shall supervise the construction of up to six anaerobic manure digesters provided for in this act.

(b) **Board duties.**— The board shall:

(1) Advise the PEO as to a site and a design for digesters.

(2) Consider the feasibility of adopting a single basic design that may be copied easily by others.

(3) Approve a digester before releasing funds for its construction.]

Section 7. Funding.

(a) **Availability of funds.**—Financing of [the construction of anaerobic manure digesters] *digesters and agricultural by-product management technology programs and projects* shall be provided to the extent that funds are available.

(b) Use of specific appropriation, contributions and other payments.—The [Pennsylvania Energy Office] *department* is authorized to use funds specifically appropriated by the General Assembly for the purposes of this act and any funds, contributions or payments which may be made available to it by *another State agency*, the Federal Government or [by] any public or private source for the purpose of implementing the provisions of this act.

[(c) **Center for Rural Pennsylvania.**—The Pennsylvania Energy Office is authorized to submit eligible projects to the Center for Rural Pennsylvania for financing from funds appropriated to the center.

(d) **Department of Agriculture.**—With the concurrence of the Pennsylvania Energy Office, projects eligible for financing under this act shall be eligible for financing under the Agricultural Technology Loan Program in the Department of Agriculture.

(e) **Department of Commerce.**—The Pennsylvania Energy Office is authorized to submit eligible projects under this act to the Department of Commerce for financing under the Ben Franklin/IRC Partnership Fund.]

(c) *Grant recipient.*—The recipient of a grant, loan or other financial assistance or participation in a program developed pursuant to this act shall not preclude an individual, partnership or corporation from receiving grants, loans or other financial assistance or participating in programs pursuant to the act of May 20, 1993 (P.L.12, No.6), known as the Nutrient Management Act, or the act of December 12, 1994 (P.L.900, No.130), known as the Agriculture-Linked Investment Program Act.

Section 4. This act shall take effect in 60 days.

APPROVED—The 22nd day of June, A.D. 2001.

THOMAS J. RIDGE