

Discussion Draft

Pennsylvania Agricultural Fair Act

The following is a discussion draft of proposed revisions to the Pennsylvania Agricultural Fair Act (the act of July 8, 1986, P.L. 437, No. 92) (3 P.S. §§ 1501 – 1508.1). It offers some revisions and captures (in footnotes) the comments and suggestions offered by PDA's Bureau of Market Development to date.

This document is not offered as a final product, but as a guide for discussion.

Proposed additions are underlined, like this. Proposed deletions are bracketed and struck-through, like [~~this~~].

§ 1. Short title

This act shall be known and may be cited as the Pennsylvania Agricultural Fair Act.

§ 2. Declaration of purpose

The General Assembly declares that agricultural fairs are a part of Pennsylvania's rich heritage and the public policy of this Commonwealth should be to continue their contribution to agriculture and agribusiness by encouraging related careers, fostering production and product improvements and promoting increased investments. Agricultural fairs also enrich the life of the community by showcasing agricultural and agribusiness achievements, offering recreational opportunities and

promoting tourism. The purpose of this act is to make funds available to encourage the further development and improvement of Pennsylvania's agricultural fairs.¹

§ 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:

~~["Activity day." The conducting of a minimum of six hours of events, activities or programs within a calendar day.]²~~

"Agricultural fair." An annual agricultural exhibition ~~[contributing]~~ that:

(1) contributes to the development of several or many phases of agriculture or agribusiness by the conduct of educational programs, activities, demonstrations, contests and exhibits;

(2) is open to the public for a total of at least eighteen hours, over consecutive days, with advance advertisement of these hours of operation; and³

(3) pays \$2,500 or more in premiums to winners of agricultural or agribusiness contests or exhibits.⁴ ⁵

~~["Class A fair." An annual agricultural event which operates on 40 acres or more of land and pays \$10,000 or more in premiums to winners of agricultural or agribusiness contests or exhibits.~~

¹ Note that this language talks *exclusively* about fairs, and does not address "Statewide agricultural organizations" or "countywide or Statewide 4-H and FFA" units.

This draft would revise the Act to make clear that a 4-H or FFA group does *not* have to conduct a fair to obtain grant funds.

² As drafted, the term "activity day" would no longer be used in the Act.

³ A member of the Fair Advisory Committee expressed concern that the original proposed language was "too loose," and provided an example of a local fair that is currently spread over 6 days but that does not adequately publicize its hours.

In response, the provision is revised to require the "advance advertisement" of a fair's hours of operation and Section 6(a)(2)(x)(E) requires an applicant to confirm this advance advertisement in its reimbursement grant application submittal.

⁴ As drafted, this definition adds elements of the definitions of the various classes of fairs and deletes those class definitions.

Also, a question was raised as to whether there should be some language added here to emphasize that the fair must have a mission statement devoting the fair to the promotion of agricultural and/or agribusiness. This is addressed in proposed Section 6(a)(2)(x)(A) and (B), which require a mission statement and a "written statement of how the grant funds sought would be used to further the applicant's mission statement and the declaration of purpose presented (in section 2 of the Fair Act)."

⁵ With respect to this requirement a Fair Advisory Committee member noted: "There is no guarantee it could be more." PDA reads this comment as noting that the "\$2,500" is just a *minimum* and that fairs are certainly free to award premiums that exceed this number, and agrees with the commentator.

~~"Class B fair." An annual agricultural event which operates on 30 acres or more of land and pays \$7,500 to \$9,999 in premiums to winners of agricultural or agribusiness contests or exhibits.~~

~~"Class C fair." An annual agricultural event which operates on 20 acres or more of land and pays \$5,000 to \$7,499 in premiums to winners of agricultural or agribusiness contests or exhibits.~~

~~"Class D fair." An annual agricultural event which operates on 10 acres or more of land and pays \$2,500 to \$4,999 in premiums to winners of agricultural or agribusiness contests or exhibits.~~⁶

~~"Class E fair." An annual agricultural event which operates on fewer than 10 acres of land and pays less than \$2,500 in premiums to winners of agricultural or agribusiness contests or exhibits.]~~

"Department." The Department of Agriculture of the Commonwealth.

"FCCLA." Family, Career and Community Leaders of America.⁷

"FFA." Future Farmers of America.⁸

"Open Class." An event for which agricultural or agribusiness premiums are paid and which is open to participants who need not be associated with any particular organization.

"Race Horse Industry Reform Act." The act of October 28, 2016 (P.L. 913, No. 114) (3 Pa.C.S. §§ 9301 – 9374).⁹

"Secretary." The Secretary of the Department of Agriculture of the Commonwealth.

§ 4. Advisory committee

⁶ As drafted, the document would do away with the various classes of fairs.

⁷ For clarity. Also, this acronym replaces references to "FHA" – the Future Homemakers of America – which changed its name to the FCCLA in 1999.

⁸ For clarity.

⁹ This statute is referenced several times in the Act.

(a) Committee established.--There is established within the department an advisory committee composed of [~~seven~~] twelve members as follows:

(1) the Secretary of Agriculture, who shall be chairman;

(2) the Chairman and the Minority Chairman of the Agriculture and Rural Affairs Committee of the House of Representatives, or [~~his designee~~] their designees;

(3) the Chairman and the Minority Chairman of the Agriculture and Rural Affairs Committee of the Senate, or [~~his designee~~] their designees;

(4) [~~and four additional members to be appointed by the secretary, including three representatives of agricultural fairs and one member who shall represent the public at large.~~] four representatives of agricultural fairs, comprised of a representative of each of the four geographic regions established by the Pennsylvania State Association of County Fairs and appointed by the secretary;

(5) one member representing the Office of Tourism of the Department of Community and Economic Development, as designated by the Secretary of the Department of Community and Economic Development;

(6) one member representing the public at large, appointed by the secretary; and

(7) one member from among the various youth groups described in Section 5(3) and 5(4),¹⁰ appointed by the secretary.

The appointed members shall serve for terms of two years. [~~Appointments to the committee shall be made within 60 days of this act.~~]

(b) Quorum.--No business shall be transacted by the advisory committee in the absence of a quorum, which shall consist of [~~four~~] six members.

(c) Expenses.--The members of the advisory committee shall not be entitled to compensation for their services as members, but may be entitled to receive the amount of reasonable traveling, lodging and other necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations.¹¹

(d) Duties.--The advisory committee shall assist and advise the secretary, review any proposed departmental regulations and the annual plan for the administration of this act, and periodically review the operation of the program and make recommendations on the disbursement of funds.

§ 5. Grants

¹⁰ 3 P.S. Section 1505(3) and (4).

¹¹ See proposed Section 9, which would establish a restricted account from which these (and other) costs might be paid.

~~[The department is authorized to make grants in amounts approved by the secretary in the following manner:~~

~~(1) On or before February 1, annually, to eligible county agricultural societies, independent agricultural societies and other organizations which conduct an annual agricultural fair to assist the organizations as follows:~~

~~(i) Financing their operating costs,¹² including, but not limited to, the cost of exhibiting agribusiness products, materials and equipment, conducting agricultural or agribusiness educational activities and demonstrations, and awarding premiums to contest and exhibit winners at the fairs.~~

~~(A) A basic payment for operating expenses, the sum of which may not exceed \$14,000 for Class A fairs, \$12,000 for Class B fairs, \$9,500 for Class C fairs, \$7,000 for Class D fairs and \$2,500 for Class E fairs.~~

~~(B) Fifty percent of money paid for all other agricultural premiums not included in paragraph (1), with a maximum payment for premiums not to exceed \$15,000.~~

~~(ii) Financing their costs to improve buildings and grounds, add land or construct new facilities.¹³~~

~~(iii) Reimbursing each county agricultural society and each independent agricultural society conducting harness horse racing during its annual fair, other than races for two and three year old colts and fillies provided for in subparagraph (iv), in an amount of money equal to that used during its annual fair as purse money for harness horse racing, track and stable maintenance, starting gate rental and the cost of all harness horse racing officials required during the annual fair. Reimbursement shall not exceed \$13,000, and a minimum of \$4,000 shall be used for purse money.¹⁴~~

~~(iv) Reimbursing each county agricultural society and independent agricultural society conducting races for two and three year old colts and fillies at its annual fair, concerning which a maximum of \$7,600 was paid annually. Entrance fees collected for each race shall not be included for purposes of determining eligibility for a grant under this section.¹⁵~~

¹² Note that operating cost reimbursement grants would be phased-out over the first three years after the effective date of this legislation. See paragraph (8) of this section.

The amount of operating cost grant dollars per-fair-patron varies with the fair involved, with some fairs receiving operating cost grant sums that equate to *over \$10-per-patron* while other fairs receive operating cost grant sums that equate to *less than \$.01-per-patron*.

Other states do not appear to offer grants for the operating costs incurred by their fairs.

¹³ These grants would continue. See paragraph (2), in the new text of this section.

¹⁴ These grants would continue. See paragraph (5), in the new text of this section.

¹⁵ The new Race Horse Industry Reform Act (Act 114 of 2016) limits the circumstances under which funds from the Pennsylvania Sire Stakes Fund can be used to reimburse costs associated with races involving one-year-old and

~~(2) To Statewide agricultural organizations which contribute to the development of many phases of agriculture or agribusiness.]¹⁶~~

The Department is authorized to make annual grants,¹⁷ in amounts approved by the secretary, for one or more of the following purposes:

(1) To reimburse a portion of the costs of premiums to contest and exhibit winners at an agricultural fair, with that portion being specified (whether as a percentage or an exact amount) in the annual plan, and with the maximum total payment to an individual agricultural fair for this reimbursement not to exceed \$20,000, or some greater amount established by the Department through regulation.¹⁸

(2) To finance a portion of the cost incurred by an agricultural fair in:

(i) adding land; or

(ii) constructing new facilities or improving buildings or grounds on land owned by the agricultural fair; or ¹⁹

(iii) improving information technology infrastructure, including network capacity and security, and related services approved by the Department; or²⁰

(iv) constructing new facilities or improving buildings or grounds on land leased by the agricultural fair, provided that the lease:

(A) extend for at least 20 years beyond the date of the grant application;

two-year-old colts and fillies, and doesn't address this in the context of *fairs*. Give thought to how/whether this needs to be revised in any way. As drafted, it is proposed for deletion.

¹⁶ The Department seeks to preserve the possibility of grant funds being awarded to these types of organizations, but seeks to more closely align *eligibility* for these grants to the purposes of the Act. The Department's initial drafting effort is in paragraph (7) of the text below.

¹⁷ Should grant applicants have to elect between a premium reimbursement grant or a capital improvement grant in any given fiscal year? Illinois requires a fair to elect between: (1) a program that is the rough equivalent of PA's operating cost reimbursement grants; OR (2) a program that addresses capital improvements (Illinois calls it a "Rehabilitation" grant). Each year a fair can pick between these two grants – but it cannot have both.

¹⁸ This draft does away with the various fair classes and raises the total premium maximum reimbursement by \$5,000 (to \$20,000).

This also lets PDA pay more than 50% of the cost of the premiums, if it so states in the annual plan.

¹⁹ New subparagraph (iv) of this provision allows for grants to fund projects with respect to certain *leased* land. This is for discussion.

The Florida statutes (at Title XXXVI, Chapter 616, Section 616.21) provide as follows:

... Further, the appropriation may not be expended for the construction of a building unless fee simple title to the land on which the building is to be constructed is vested in the county, municipality, or fair association for which the building is to be constructed.

Illinois requires ownership of the land or a lease extending-out at least 20 years, and the terms of which "... require the lessee to have continuous possession of the land during every day of the lease period, and it shall contain a clause that those buildings constructed with (grant) funds shall be the property of the fair." It goes on to require that if the lease is terminated before the expiration date, the fair has the right to remove the buildings, improvements and equipment purchased with (grant) funds." (8 Illinois Admin. Code 260, Section 260.205)

²⁰ This language was offered by Deputy Secretary Cook on 032717.

(B) requires the lessee to have continuous possession of the land during every day of the lease period;

(C) contains a clause providing that those buildings constructed with grant funds shall be the property of the fair; and

(D) provides that if the lease is terminated before the expiration date, the fair has the right to remove the buildings, improvements and equipment purchased with grant funds.²¹

(3) To [~~countywide or Statewide 4-H and FFA or combined FFA and FHA units of boys and girls under 21 years of age to be used for the general operations of the units in agriculture or agribusiness programs~~] the following units of persons under 21 years of age, to be used for the general operations of the units in agriculture or agribusiness programs, provided that the unit engages in activities that promote the development, improvement or operation of one or more agricultural fairs during the year with respect to which a grant is sought:²²

(i) FFA units;²³

(ii) combined FFA and FCCLA²⁴ units; and

(iii) countywide 4-H units.

An organization whose members consist entirely of minors must apply through and be represented by an adult advisory group, and both groups must be recognized by their respective county governments or by the Commonwealth. Each [~~countywide or Statewide 4-H and FFA or combined FFA and FHA unit~~] FFA unit, combined FFA and FCCLA unit, or countywide 4-H unit that receives grant funds from the department²⁵ shall be required to report on its activities and justify these activities as events which contribute to the advancement of agriculture or agribusiness, and to document its activities in promoting the development, improvement or operation

²¹ This language adopts the Illinois language described in the footnote above.

Several fairs do not own the land on which they conduct their events.

²² The requirement that one of these units contribute to the development, improvement or operation of an agricultural fair is *new*, but is in alignment with the overall purpose of the Act: the development and improvement of Pennsylvania's agricultural fairs.

Note that – unlike the grants to “fair-affiliated youth groups” described in Section 5(4) – these grants would be based upon expenses incurred by a unit in its “general operations ... in agriculture or agribusiness programs,” rather than in developing, improving or assisting at an agricultural fair. In other words, assisting with at least one agricultural fair is a *prerequisite* to receiving grant funds under this section but the grant fund amount is not tied to the expenses incurred by the unit in developing, improving or assisting at an agricultural fair.

²³ Note that this language does not require that FFA or FFA/FCCLA units be “countywide or Statewide” in order to receive grant funds, but preserves the requirement that a 4-H unit be “countywide or Statewide.” This change acknowledges that while 4-H units tend to be organized on a countywide level, FFA and FCCLA units tend to be organized by school district.

This proposed revision is consistent with comments offered by PSU.

²⁴ Correcting the acronym.

²⁵ See preceding footnote.

of one or more agricultural fairs.²⁶ Reports shall include a record of expenses incurred in the conduct of these qualifying activities. The grant awarded to each youth group cannot exceed the amount of expenses reported for the conduct of the activities.

(4) To fair-affiliated youth groups, other than those groups described in paragraph (3), that:

- (i) are comprised of boys and girls under 21 years of age;
- (ii) perform activities directly in support of an agricultural fair;
- (iii) provide the written endorsement of that agricultural fair, describing the activities the fair-affiliated youth group performs in support of the fair and how those activities encourage the further development and improvement of the fair; and
- (iv) provide a report of the expenses incurred by the fair-affiliated youth group in performing the activities in support of the fair with which it is affiliated.

Grant funds are to reimburse some portion of the expenses incurred by the fair-affiliated youth group and cannot exceed the amount of expenses reported.²⁷ ²⁸

(5) To reimburse each county agricultural society and each independent agricultural society conducting harness horse racing during its annual fair, other

²⁶ This reporting obligation solidifies the new requirement that these units assist with the development, improvement or operation of agricultural fairs.

²⁷ This provision, allowing for the award of grants to cover some of the expenses of fair-affiliated youth groups *other* than 4-H and FFA groups, and that nevertheless support the objectives of the Act, is entirely new.

A member of the Fair Advisory Committee expressed concern with respect to allowing grant funds to reach youth groups *other* than 4-H and FFA groups. The commentator is concerned as to how these groups would be accountable, noting that 4-H and FFA groups are *over a century old* and have a well-established mission and reputation.

PSU is also opposed to this language because of 4-H and FFA's long traditions and the new competition might dilute the overall amount of funds that gets to 4-H and FFA. (See PSU's comment letter). PSU maintains that 4-H and FFA groups have adult oversight, and emphasize safety and "positive youth development."

As drafted, the revisions would allow youth groups that have the endorsement of the fair, perform activities in support of a fair and document the expenses they incur in performing these activities to seek partial reimbursement of these expenses. The thinking behind this is that if a youth group is working to assist/advance a fair, that activity is entirely consistent with the stated purpose of the Act, which is to "... make funds available to encourage the further development and improvement of Pennsylvania's agricultural fairs."

²⁸ At the November 9, 2016 meeting of the Fair Advisory Committee, member Kerry Golden recommended PDA see if there is language that can be borrowed from the Agricultural and Rural Youth Development Act (3 P.S. §§ 1601 – 1609) to describe the type of fair-affiliated youth group referenced in this paragraph. PDA had that same thought, reviewed the statutory definition of "Agriculture and rural youth organization" and determined it did not quite match the type of youth groups PDA wanted to define here. Here is the definition of an "Agricultural and rural youth organization" from the Agricultural and Rural Youth Development Act (at 3 P.S. § 1602):

"Agriculture and rural youth organization." Any organization composed mainly of youth and organized to promote development in the areas of agriculture, rural community leadership, vocational training and peer fellowship. The term includes, but is not limited to, Pennsylvania FFA, 4-H, Ag in the classroom, Future Homemakers of America and vocational education programs.

than races for two-and three-year old colts and fillies, in accordance with Section 9338(a) of the Race Horse Industry Reform Act (3 Pa.C.S. § 9338(a)).²⁹

(6) To make annual grants to reimburse a portion of the track or stable construction or maintenance costs³⁰ incurred by an agricultural fair that conducts harness horse racing at its annual fair, provided that:

(i) Such an annual grant shall not exceed \$10,000, or a greater amount specified in the annual plan described in Section 8(a.1);

(ii) The total of such annual grants awarded among agricultural fairs in a single calendar year shall not exceed \$200,000,³¹ or some greater amount established by the department through regulation; and

(iii) The grant is not duplicative of reimbursement provided to an agricultural fair under Paragraph (5).

An agricultural fair receiving a reimbursement grant under this paragraph³² shall not be required to provide matching funds as a condition of receiving the grant.³³

(7) To Statewide agricultural organizations which encourage the further development and improvement of Pennsylvania's agricultural fairs.³⁴

²⁹ The referenced provision from the Race Horse Industry Reform Act (Act 114 of 2016) reads as follows:

Section 9338. Fair fund proceeds.

(a) Distribution.--The Department of Agriculture shall distribute money in the fair fund annually, on or before March 1, for reimbursement for each county agricultural society and each independent agricultural society conducting standardbred horse racing during its annual fair, other than races for two-year-old colts and fillies and three-year-old colts and fillies, an amount of money equal to that used during their annual fair as purse money for standardbred horse racing, track and stable maintenance, starting gate rental and the cost of all standardbred horse racing officials required during their annual fair. The reimbursement amount may not be more than \$13,000, a minimum of \$4,000 of which must be used for purse money and the balance of the allotment per fair, not used for purse money over the minimum \$4,000 allotment, shall be used for the specific purposes referenced above or otherwise the allotment shall be retained in the fund.

Also, note that the provision quoted above references the "Fair Fund."

The Bureau relates that of the 15 or so fairs that conduct standardbred racing, only 2 received money under this provision.

³⁰ This is very limited, with the idea of excluding such peripheral expenses as grandstand construction costs, parking lot construction, purse money, starting gate rental, judges' compensation and the like and concentrating on the basic brick-and-mortar infrastructure needed for harness horse racing.

³¹ This number reflects that there are currently about 15 agricultural fairs that have harness race tracks. It establishes an upward (but adjustable, through regulation) limit on the total amount of funds that can be directed toward these grants. Several fairs have expressed interest in reviving or establishing harness racing. The "\$200,000" figure would allow the Department to accommodate up to five new harness racing fairs without having to revise regulations.

³² Correct this "paragraph" reference as necessary.

³³ The idea behind not requiring a matching outlay of funds by the fair for these track infrastructure grants is to effectively place "free" limited-purpose use-or-lose money before fairs to encourage them to consider conducting harness racing activities and maintaining their tracks for racing.

³⁴ As stated above, although the Department seeks to preserve the possibility that a Statewide agricultural organization may receive grant funds, it seeks to move away from the current requirement that such organizations "... contribute to the development of many phases of agriculture or agribusiness." This objective does not squarely

(8) To finance a portion of the operating costs of an agricultural fair including, but not limited to, the cost of exhibiting agribusiness products, materials and equipment, and conducting agricultural or agribusiness educational activities and demonstrations, as follows:³⁵

(i) In year 20 ³⁶ this basic payment for operating expenses shall not exceed \$9,000³⁷ for any agricultural fair.

(ii) In year 20 ³⁸ this basic payment for operating expenses shall not exceed \$6,000 for any agricultural fair.

(iii) In year 20 ³⁹ this basic payment for operating expenses shall not exceed \$3,000 for any agricultural fair.

²⁵⁰⁰
(9) In the year 20 ⁴⁰ and thereafter, the Department may award a basic payment to finance a portion of the operating costs, including, but not limited to, the cost of exhibiting agribusiness products, materials and equipment, and conducting agricultural or agribusiness educational activities and demonstrations at an agricultural fair.⁴¹

(i) The eligibility criteria and terms and conditions for this payment shall be as established by the Department in the annual plan described in section 8(a.1).

(ii) A payment shall not exceed the maximum amount as established by the Department in the annual plan.⁴²

(iii) The eligibility criteria and terms and conditions shall have, as an objective, directing operating cost payments to those smaller agricultural fairs that engage in sound business planning and operating practices including:

align with the statutory purpose (See Section 2) of encouraging, developing and improving Pennsylvania's agricultural fairs. So, as drafted, this provision aligns these grants to the stated purpose of the Act. The Department invites suggestions on refinements to this proposed language.

³⁵ This does not include language that is in the current statute referencing "awarding premiums to contest and exhibit winners at the fairs," with the thought this is addressed adequately in Section 5(1).

³⁶ This year will be the *first* full calendar year following the enactment date.

³⁷ The current law caps these operating expense reimbursements at \$14,000 for a Class A fair, \$12,000 for a Class B Fair, \$9,500 for a Class C fair, \$7,000 for a Class D fair and \$2,500 for a Class E fair. Since the legislation would *do away* with these classes, this draft establishes a single cap for all fairs, using the \$12,000 sum (currently applicable to Class B fairs) as a starting point and decreases the cap by \$3,000-per-year.

³⁸ This year will be the *second* full calendar year following the enactment date.

³⁹ This year will be the *third* full calendar year following the enactment date.

⁴⁰ This year will be the fourth full calendar year following the enactment date.

⁴¹ This explanation of what constitute "operating costs" comes from the current statute, at 3 P.S. Section 1505(1)(i). It omits costs related to "awarding premiums to contest and exhibit winners," with the thought that these are covered under Paragraph (1) of this section.

⁴² An earlier draft would have established a hard \$10,000 cap on these grants, but giving the Department discretion to vary the cap amount will provide flexibility over the years the revised Act is likely to be in effect before being again amended.

- (7)
- (A) having an operating budget for each annual fair;
 - (B) having a strategic plan establishing the purpose and objectives of the fair, and presenting the strategy for achieving the purpose and objectives presented in this plan;
 - (C) having plans for leadership development and succession;
 - (D) having plans for professional development and training of fair leadership;
 - (E) having plans to maintain and increase attendance at the fair;
 - (F) employing reasonable measures to self-finance the fair, such as charging entry fees, parking fees or other charges and fees; and
 - (G) meeting such other related requirements as are established by the Department in the annual plan.

(iv) The eligibility criteria and terms and conditions shall have, as an objective, directing operating cost payments to those smaller agricultural fairs that contribute to agriculture and agribusiness by encouraging related careers, fostering production and product improvements, promoting increased investments in agriculture and agribusiness, showcasing agricultural and agribusiness achievements and otherwise meeting the statutory purpose in Section 2.⁴³ This shall include consideration of the number, type and quality of agricultural or agribusiness contests or exhibits.

(v) The eligibility criteria and terms and conditions shall have, as an objective, directing operating cost payments to those smaller agricultural fairs that involve FFA units, combined FFA and FCCLA units, 4-H units, fair-affiliated youth groups and youth in educational activities and agricultural or agribusiness contests or exhibits at the fair.

(vi) The eligibility criteria and terms and conditions shall require that an applicant fair verify that the receipt of any operating cost reimbursement from the Department under this paragraph is not essential to the continued operation of the fair.⁴⁴

(vii) The Department may include additional eligibility criteria and terms and conditions consistent with this paragraph.

§ 6. Eligibility

(a) Requirements.--To be eligible to receive a grant from the department, an organization must meet all of the following requirements:

⁴³ This paraphrases the "Declaration of purpose" presented in Section 2 of this act.

⁴⁴ This is for discussion, but is offered to emphasize that this money is intended as a little help for fairs that are already self-sustaining.

(1) File applications for approval during the calendar year in which the activity is held.

(2) Conduct an annual agricultural fair⁴⁵ which meets the following requirements:

(i) Exhibits agricultural or agribusiness products, materials and equipment.

(ii) Conducts agricultural or agribusiness educational activities and demonstrations.

(iii) Awards premiums to agricultural or agribusiness contest and exhibit winners with a top award for first place and proportionate awards to runners-up adjudged by position following the winner, but not to exceed ten in number.

(iv) Provides proper first aid through medical personnel and adequate sanitary facilities which meet Commonwealth and local requirements.⁴⁶

(v) Provides supervision of all activities by an officially appointed committee or a board of directors of not fewer than five persons.

(vi) Files all reports, forms and applications for moneys received from grants made available according to this act, and maintains records required by the rules and regulations promulgated by the department.

(vii) Provides that at least 25% of the events for which agricultural or agribusiness premiums are paid must be open class events.

(viii) Holds a program or programs contributing to the development of several or many phases of agriculture or agribusiness for [~~not fewer than five activity days for Class A, B and C fairs and not fewer than three activity days for Class D and E fairs~~] a total of at least eighteen hours, over consecutive days.⁴⁷

(ix) Operates with a minimum of 12 departments as outlined in the State Premium Guideline Book and has no fewer than five exhibitors in each department.

(x) Includes, as part of its application for grant funds under this act:

⁴⁵ Note that a new proposed subsection – subsection (a.1) – would exempt 4-H and FFA groups from this requirement.

⁴⁶ This does not seem necessary, and is something PDA must check when it audits fairs. It *could* be deleted, but its presence is fairly benign.

⁴⁷ The minimum number of “activity days” currently required of Class “D” and Class “E” fairs is three days, and the minimum hours in an “activity day” is six. As drafted, the revised Act would *preserve* a requirement that a fair be open to the public for at least 18 hours, but would allow a fair to be flexible in terms of how many hours it is open to the public in each of the consecutive days it operates. As long as the total hours is at least 18, the fair is eligible for grants under the act.

(A) a copy of its mission statement reflecting that its purposes and objectives are consistent with the declaration of purpose presented in section 2;⁴⁸

(B) a written explanation of how the grant funds sought would be used to further the applicant's mission statement and the declaration of purpose presented in section 2;⁴⁹

(C) a statement of the public attendance at the subject agricultural fair in each of the three most recently completed annual fairs and the methodology by which attendance was calculated;⁵⁰

(D) a statement confirming that the requested grant funds are not required in order for the organization to conduct the subject agricultural fair;⁵¹

(E) an explanation of how the fair provided advance advertisement of its hours of operation to the public;⁵²

(F) such other documentation or information as the department may reasonably require; and

(G) a signed verification, made subject to the criminal penalties for unsworn falsification set forth in the Crimes Code at 18 Pa.C.S. § 4904, confirming that the information presented in the application is complete and accurate.

⁴⁸The objective is to try to focus on fairs that are agriculture-centric.

⁴⁹ This would require an applicant to not just provide a copy of its mission statement, but to *explain* how the grant is consistent with the purposes of the Act and the Fair's mission statement.

⁵⁰ PDA should be capturing this information. There are some fairs that receive about \$10 in grant funds per attendee, and some that receive *pennies*-per-attendee. This should figure into PDA's decision-making process with respect to grants.

A member of the Fair Advisory Committee asks how attendance should be calculated, and provided examples of fairs that do not charge for parking, or have a gate fee, or that are staged on main streets of towns, parks or high school auditoriums.

PDA does not propose a specific methodology for calculating attendance at fairs. For those fairs that charge admission the compilation of attendance figures will be straightforward. For those that only charge a parking fee, the number of vehicles can be multiplied by a figure that equals the average per-vehicle occupancy. For fairs that do not charge parking or entry fees, approximate attendance can be calculated by counting the number of attendees in several squares and multiplying the average by the number of squares comprising the fair area. There are many ways to calculate attendance. As stewards of the limited amount of public funds that are made available to help fairs, PDA believes it must make an effort to determine fair attendance and should be able to consider fair attendance in awarding grants under the Act. PDA expects fairs to make a serious, good-faith effort at calculating attendance. Should it become necessary to require a specific methodology (or methodologies) for calculating fair attendance, PDA can establish such requirements by regulation.

⁵¹ The grants awarded under this Act are *reimbursement* grants.

⁵² This is proposed in response to a comment from a Fair Advisory Committee member, who was aware of at least one fair that did not appear to publicize its hours of operation adequately.

(a.1) Annual agricultural fair not required. Subsection (a) notwithstanding, if an applicant is an FFA unit, combined FFA and FCCLA unit, or countywide 4-H unit that is seeking a grant for the general operations of the unit in accordance with section 5(3),⁵³ or a fair-affiliated youth group that is seeking a grant in accordance with section 5(4), then that organization need not conduct an annual agricultural fair.⁵⁴

(b) Commencement of benefits.--An organization conducting an annual agricultural fair hereafter incorporated or recognized by a county government or the Commonwealth shall not be entitled to the benefits of this act until the organization has conducted three consecutive annual exhibitions of the character designated in this section. The organization shall, upon its inception, file with the secretary a declaration of its intention to apply for a grant for its fourth year. The organization must also file its report during the first three years in the same manner as an eligible organization. This subsection shall not apply to an eligible organization heretofore or hereafter incorporated which shall resume the holding of annual exhibitions of the character designated in this section, which exhibitions have been temporarily discontinued for a period of not more than two years.

(c) Department's discretion.--The Department shall have discretion to review and prioritize grant applications and to determine and prioritize those projects and activities that best meet the declaration of purpose set forth in section 2.⁵⁵

§ 7. Appropriation

The department shall make grants from moneys appropriated annually by the General Assembly for the purposes stated herein.⁵⁶

§ 8. Regulations and annual plan

(a) Power to promulgate regulations.--The secretary shall have the power and the authority to promulgate, adopt and use any rules and regulations necessary for the administration of this act [~~and shall,~~].

(a.1) Annual plan.--The secretary shall, with the advice and assistance of the advisory committee, adopt an annual plan for the awarding of grants under this act. The annual plan shall be submitted for publication in the Pennsylvania Bulletin as

⁵³ 3 P.S. § 1505(3).

⁵⁴ This makes clear that a fair is not required of 4-H and FFA organizations, or of a fair-affiliated youth group.

⁵⁵ The objective is to make clear that all grant applications are not equal, and that in distributing available grant funds the Department should be able to prioritize awarding grant funds for those projects and activities that best serve the statutory purpose.

⁵⁶ If the bill adds the restricted account in Section 9, then this whole section can be merged into the "appropriation" language in that section. If the bill does *not* add a restricted account, this language can be refined.

a notice pursuant to 45 Pa.C.S. § 725(6) (relating to additional contents of Pennsylvania Bulletin).

~~(b) [Continuation of certain rules and regulations.—All rules and regulations promulgated under the provisions of section 225 of the act of December 17, 1981 (P.L. 435, No. 135), known as the Race Horse Industry Reform Act, shall remain in effect except to the extent that they are inconsistent with this act. The secretary may amend, revise or alter rules and regulations promulgated under section 225 of that act to make the rules and regulations consistent with this act.]⁵⁷ **Economic impact assessment.**—The secretary may apply some portion of the Agricultural Fair Fund to conduct economic impact studies, and may use these in determining the award of grants under this act. If an economic impact study is conducted under authority of this subsection, a fair that does not cooperate, assist and provide records and information as required for that study shall be ineligible to receive any funds under this act with respect to the following calendar year.⁵⁸~~

§ 8.1. Authority to regulate racing conducted at agricultural fairs⁵⁹

⁵⁷ This subsection does not appear to be necessary.

⁵⁸ This draft language addresses the Bureau's stated desire to have more discretion in distributing grant funds and to be able to measure/compare the economic impact of various fairs.

An Advisory Committee member emphasized the importance of the "validity and reliability" of any economic impact study – particularly where it might be used to determine the award of grants. According to the commentator, the Pennsylvania State Association of County Fairs performed such a study and participation by fairs was minimal, the results were not reliable and the release of this study was "embarrassing." This comment prompted the addition of the final sentence of this subsection, which is intended to assure the full cooperation of fairs in any economic impact assessment.

The commentator also asked how much would be paid for such a study, and where the funds for such a study would come from. Under proposed Section 9(c)(2) of the Act, money from the Agricultural Fair Fund could be used to fund these studies, and there is no specific cap on the amount of funds that could be applied to this study.

⁵⁹ This provision is a substantive restatement of Section 9312(9) of the Race Horse Industry Reform Act (at 3 Pa.C.S. § 9312(9)). It had originally been proposed for *rescission*, but has been retained.

Here are agricultural-fair-related provisions from the Race Horse Industry Reform Act:

Section 9337. Pennsylvania Sire Stakes Fund.

* * *

(e) Agricultural fairs and events.--

(1) The following shall apply:

(i) The remaining money in the Pennsylvania Sire Stakes Fund, up to a total of \$75,000 (NOTE: *In the OLD version of this statute the number was \$25,000*) for each agricultural fair and one-day or two-day events as defined in the commission's regulations, shall be divided equally among the agricultural fairs and one-day or two-day events.

(ii) No more than five one-day or two-day events may be authorized by the commission per year.

(iii) No more than two one-day or two-day events per county may be authorized by the commission except if, after a date established by the commission, the five events referenced under subparagraph (ii) conducting harness horse races for two-year-old and three-year-old harness horses have not been allocated.

Pursuant to the [act of December 17, 1981 (P.L. 435, No. 135),]⁶⁰ statute known as the Race Horse Industry Reform Act, the State [Harness] Horse⁶¹ Racing Commission shall have jurisdiction over and shall promulgate regulations as necessary for the proper administration of all racing conducted at an agricultural fair by a county agricultural society or an independent agricultural society.⁶²

§ 9. Agricultural Fair Fund⁶³

(a) Establishment.--There is established in the State Treasury a special fund

(iv) Not less than \$225,000 shall be allocated from the Pennsylvania Sire Stakes Fund and be divided equally among agricultural fairs and one-day or two-day events conducting harness horse races for two-year-old and three-year-old harness horses.

(2) Each fair or one-day or two-day event receiving funds under this subsection shall divide the total amount equally among all eligible races for two-year-old and three-year-old harness horses and shall apply the funds solely as additional purse funds. Only races to which entry is restricted to Pennsylvania-sired horses shall be eligible. The commission shall provide for and promulgate regulations necessary for the proper administration of racing provided for under this subsection, including, but not limited to, portable stall rentals at one-day or two-day events.

Section 9338. Fair fund proceeds.

(a) Distribution.--The Department of Agriculture shall distribute money in the fair fund annually, on or before March 1, for reimbursement for each county agricultural society and each independent agricultural society conducting standardbred horse racing during its annual fair, other than races for two-year-old colts and fillies and three-year-old colts and fillies, an amount of money equal to that used during their annual fair as purse money for standardbred horse racing, track and stable maintenance, starting gate rental and the cost of all standardbred horse racing officials required during their annual fair. The reimbursement amount may not be more than \$13,000, a minimum of \$4,000 of which must be used for purse money and the balance of the allotment per fair, not used for purse money over the minimum \$4,000 allotment, shall be used for the specific purposes referenced above or otherwise the allotment shall be retained in the fund.

(b) Inspection.--The commission shall annually inspect each track facility at a county fair and advise each operating fair about track maintenance which is necessary to ensure adequate racing surface during the course of scheduled fairs and racing events. If it is the opinion of the commission that the fair society or event sponsor is not adequately financing track maintenance, the Department of Revenue shall surcharge the fair fund account of the fair society or event sponsor to effectuate the remediation. The commission may contract with, hire or otherwise consult with race track surface experts to carry out the provisions of this section.

⁶⁰ The citation for this statute is provided in Section 3 ("Definitions").

⁶¹ This Commission was so *renamed* in the current Race Horse Industry Reform Act.

⁶² This section is an instruction to the Racing Commission (now called the "State Horse Racing Commission" to regulate racing at fairs. As related in a footnote above, this provision also appears in the Race Horse Industry Reform Act (at 3 Pa.C.S. § 9312(9)), and reads as follows:

Section 9312. Additional powers of commission.

* * *

(9) The State Horse Racing Commission shall have jurisdiction over and shall promulgate regulations as necessary for the proper administration of all racing conducted by a county agricultural society or an independent agricultural society as provided in the act of July 8, 1986 (P.L.437, No.92), known as the Pennsylvania Agricultural Fair Act.

There is no mention of agricultural fairs in the Racing Commission's regulations at 58 Pa. Code.

⁶³ This language is based on 3 Pa.C.S. Section 4608 – the provision of the Pennsylvania Preferred Act creating the Pennsylvania Preferred Trademark Licensing Fund.

which shall be an interest-bearing restricted revenue account to be known as the Agricultural Fair Fund. Money as is appropriated, given, granted or donated for the purpose established under this chapter by the Commonwealth or any other government or private agency or person shall be deposited into the fund.

(b) Appropriation.--Money in the fund is appropriated on a continuing basis to the department for the purpose of administering this act. All interest and earnings received from investment or deposit of the money in the fund shall be paid into the account for the purpose authorized by this section. Any unexpended money and any interest or earnings on the money in the fund may not be transferred or revert to the General Fund, but shall remain in the account to be used by the department for the purpose specified under this section.

(c) Use.--Money deposited in the fund is appropriated to pay:

- (1) all grants awarded under this act;
- (2) economic impact studies as described in subsection 8(b);⁶⁴
- (3) expenses as described in subsection 4(c); and⁶⁵
- (4) all expenses of the secretary⁶⁶ and the department in administering their duties under this act, including expenses relate to professional development and training for agricultural fair board members.⁶⁷

Effective Date Language to be added to Bill:

Section ____ . The provisions of this act shall apply as of January 1, 20__.⁶⁸

⁶⁴ This is Section 8(b), above.

⁶⁵ These are the travel expenses of Board members, at Section 4(c).

⁶⁶ As drafted, the document does not propose a dollar cap or a percentage-of-available-dollars cap on these expenses.

⁶⁷ From 3 P.S. Section 459-1001, which established the Dog Law Restricted Account.

This was one of the Bureau's objectives – to be able to use fair funds for PDA's administrative costs. If the bill does not ultimately include a restricted account, then the bill should be revised to add language somewhere else authorizing funds to be spent for these administrative costs.

⁶⁸ This blank is to be filled in with the calendar year immediately following the passage of the act.