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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1772 Session of  
1991

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G. SNYDER, TOMLINSON AND M. N. WRIGHT, JUNE 25, 1991

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 25, 1991

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AN ACT

1 Providing for privatization of governmental functions; providing  
2 for duties of the Department of General Services and other  
3 executive agencies; and providing for reports to the General  
4 Assembly.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Pennsylvania  
9 Government Privatization Act.

10 Section 2. Declaration of policy.

11 The General Assembly finds and declares that the inherent  
12 rights of the citizens of this Commonwealth, as protected by  
13 their Constitution, are best fostered when State government is  
14 limited in its role to the provision of services that are  
15 essential to government. Government should not engage in  
16 activities that exceed its appropriate responsibilities, nor  
17 should government engage in activity in competition with private

1 enterprise unless there is an overriding public interest which  
2 is served by the provision of a particular service by the  
3 government. The General Assembly further finds and declares:

4 (1) that State government has expanded beyond its  
5 appropriate scope of activity;

6 (2) that this growth of State government activity has  
7 greatly outpaced the ability of Commonwealth taxpayers to  
8 support it;

9 (3) that the essential functions of State government are  
10 competing for increasingly scarce resources;

11 (4) that the tax burden on Commonwealth citizens can be  
12 controlled and the level of State expenditures can be reduced  
13 through a process of defining and restructuring State  
14 governmental activities and responsibilities; and

15 (5) that a careful study and review of State government  
16 agencies and activities is needed in order to determine which  
17 of their objectives can be more appropriately and efficiently  
18 fulfilled through alternative means.

19 Section 3. Definitions.

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

23 "Activity." An organized function of State government  
24 undertaken by an agency as a result of a statute or regulation,  
25 or by an order or directive of the Governor.

26 "Agency." A department, authority, board, commission or  
27 agency of the Commonwealth.

28 "Contracting." The entering into agreements by the  
29 Commonwealth with private enterprise for the provision of goods  
30 or services.

1 "Divestiture." The elimination, in whole or in part, of a  
2 nonessential government activity, which includes any activity  
3 that need not be performed by the Commonwealth and that can be  
4 fully discharged and shed as a governmental activity.

5 "Franchise." A form of contracting that gives monopoly  
6 privileges to a private enterprise in order to provide a  
7 government service in a given geographical area.

8 "Private enterprise." An individual, firm, partnership,  
9 joint venture, corporation, association or other legal entity  
10 engaged in the manufacturing, processing, sale, offering for  
11 sale, rental, leasing, delivery, dispensing, distributing or  
12 advertising of goods or services for profit.

13 "Privatize." To act to reduce State government to essential  
14 activities through contracting, grants and subsidies,  
15 franchises, asset sales or divestiture.

#### 16 Section 4. Privatization activity report.

17 (a) General rule.--The Governor shall, within six months of  
18 the enactment of this legislation, present to the General  
19 Assembly a report which inventories current activities of  
20 Commonwealth agencies involving contracts or franchises with  
21 private enterprise. In subsequent years this report shall be  
22 presented in conjunction with the Governor's annual budget  
23 presentation.

24 (b) Contents of report.--The report shall contain, on an  
25 agency-by-agency basis, a listing of all contracts for services  
26 provided by private enterprises including the name of the  
27 private enterprise, a description of the service rendered, the  
28 contracted amount for the service and the length of the  
29 contract.

#### 30 Section 5. Duties of agencies.

1 Every department, board, commission, authority or other State  
2 agency shall promptly furnish such information as the Governor  
3 shall request as to its activities in order to complete the  
4 inventory required under section 4.

5 Section 6. Presumption.

6 In the absence of documentable evidence to the contrary, an  
7 activity of a State agency which is contained in section 7 shall  
8 be assumed to be a candidate for privatization. It shall be the  
9 responsibility of the Governor and the various departments and  
10 agencies of State government to recommend to the General  
11 Assembly steps to implement activities to reduce the size and  
12 functions of State government.

13 Section 7. Activities subject to contracting.

14 The following activities, to the extent that they are not  
15 already privatized, shall be contracted, unless the Governor  
16 shows cause why they should not be:

- 17 (1) General government operations (all agencies, as  
18 applicable):
- 19 (i) building maintenance and custodial services;
  - 20 (ii) data management;
  - 21 (iii) printing and graphic services;
  - 22 (iv) computer maintenance;
  - 23 (v) building security (except the Capitol Complex);
  - 24 (vi) transcript typing services;
  - 25 (vii) courier services;
  - 26 (viii) data collection;
  - 27 (ix) office renovation and moving services;
  - 28 (x) photographic services;
  - 29 (xi) education programs;
  - 30 (xii) technical consultants and technical

1 assistance;  
2 (xiii) claims adjusting;  
3 (xiv) mail services;  
4 (xv) workers' compensation administration; and  
5 (xvi) facility and property management.  
6 (2) Department of Agriculture:  
7 (i) egg inspections;  
8 (ii) livestock grading; and  
9 (iii) testing.  
10 (3) Civil Service:  
11 (i) testing;  
12 (ii) training; and  
13 (iii) arbitration.  
14 (4) Department of Commerce:  
15 (i) advertising.  
16 (5) Department of Corrections:  
17 (i) medical and dental services;  
18 (ii) drug treatment;  
19 (iii) diagnostic testing;  
20 (iv) inmate transportation;  
21 (v) refuse removal;  
22 (vi) pharmacy operations;  
23 (vii) optometric services;  
24 (viii) inmate education;  
25 (ix) halfway houses;  
26 (x) food and laundry services;  
27 (xi) mental health services; and  
28 (xii) vocational counseling.  
29 (6) Department of Education:  
30 (i) testing materials and analysis; and

1           (ii) Bibliographic services.

2       (7) Department of Environmental Resources:

3           (i) laboratory testing services;

4           (ii) permit reviews;

5           (iii) hazardous waste clean-up;

6           (iv) laboratory analysis; and

7           (v) asbestos removal.

8       (8) Department of General Services:

9           (i) electrical services;

10          (ii) painting services;

11          (iii) landscaping and groundskeeping;

12          (iv) plumbing services;

13          (v) elevator maintenance and repair services;

14          (vi) heating and air conditioning mechanical

15 maintenance and repair services;

16          (vii) land appraising and boundary surveying;

17          (viii) pest control;

18          (ix) snow removal; and

19          (x) fleet management and maintenance.

20       (9) Department of Health:

21           (i) drug and alcohol abuse programs;

22           (iii) AIDS programs;

23           (iii) environmental health programs;

24           (iv) lead poisoning programs;

25           (v) health facilities; and

26           (vi) research.

27       (10) Department of Insurance:

28           (i) actuarial reviews.

29       (11) Department of Labor and Industry:

30           (i) vocational training;

- (ii) job training; and
- (iii) services for the disabled.

(12) Department of Public Welfare:

- (i) mental health programs;
- (ii) medical assistance;
- (iii) health facilities;
- (iv) welfare services;
- (v) claims processing for medical assistance;
- (vi) audits;
- (vii) food stamp issuance; and
- (viii) accreditation of life care facilities.

(13) Department of Revenue:

- (i) debt collection.

(14) Department of State:

- (i) micro-filming; and
- (ii) professional examinations.

(15) Department of Transportation.

- (i) highway maintenance;
- (ii) design and planning;
- (iii) highway construction; and
- (iv) rest area maintenance.

Section 8. Procedure.

(a) Responsibilities of Department of General Services.--The Department of General Services shall be responsible for overseeing the implementation of this act. The department shall distribute to all agencies, not later than 90 days after the effective date of this act and not later than August 1 of each year thereafter, a request to compile information on activities or functions which each agency has determined can be performed by the private sector either by franchise, contract,

1 divestiture, or other means determined to be the most effective  
2 to rid that agency of a function.

3 (b) Privatization surveys.--Agencies shall send to the  
4 Department of General Services, not later than 120 days after  
5 the effective date of this act and not later than September 1 of  
6 each year thereafter, completed annual privatization surveys.  
7 These surveys shall include the results of the analysis  
8 performed by each agency according to the requirements  
9 established in section 9.

10 (c) Report to General Assembly.--The Department of General  
11 Services shall be responsible for compiling the results of these  
12 surveys and the preparation of a report to be presented by the  
13 Governor to the General Assembly in conjunction with the annual  
14 submission of the budget.

15 Section 9. Responsibilities of State agencies.

16 (a) Analysis of functions.--Every executive agency of State  
17 government under the control of the Governor shall be  
18 responsible for analyzing the functions performed by that agency  
19 to determine whether it is cost effective for that agency to  
20 reduce or eliminate functions by returning the delivery of these  
21 services to the private sector.

22 (b) Requests for proposals.--In order to perform the  
23 analysis required under this section, each agency shall be  
24 required to prepare requests for proposals to be issued to the  
25 private sector which invite private companies and individuals to  
26 indicate whether they have the capability to perform a  
27 particular function and the amount for which the bidder  
28 determines it can perform the service or function.

29 (c) Eligibility for privatization.--If the agency has a  
30 responsible bidder to perform a function at a cost less than the



1 cost currently paid by the agency to perform the function as a  
2 State function, the agency shall consider the function eligible  
3 for privatization. If the bids for the service provision are  
4 greater than the cost of the program as currently performed by  
5 the agency, the function shall not be considered eligible for  
6 private contracting and the agency shall make note of that fact  
7 in the response required under section 8.

8 Section 10. Effective date.

9 This act shall take effect immediately.