

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2639 Session of  
2004

INTRODUCED BY MCGEEHAN, BARRAR, CAPPELLI, CRAHALLA, FABRIZIO,  
FREEMAN, GEORGE, GOOD, GRUCELA, LaGROTTA, LEDERER, LEVDANSKY,  
LYNCH, McCALL, MUNDY, PETRARCA, PISTELLA, READSHAW, SCAVELLO,  
STURLA, SURRA, TIGUE, WANSACZ, WATSON AND HALUSKA,  
MAY 25, 2004

REFERRED TO COMMITTEE ON COMMERCE, MAY 25, 2004

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated  
2 Statutes, requiring Commonwealth agencies to use as a  
3 criterion for selection for certain contracts whether all the  
4 contract work will be performed exclusively within the  
5 geographical boundaries of the United States.

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

8 Section 1. Title 62 of the Pennsylvania Consolidated  
9 Statutes is amended by adding a chapter to read:

10 CHAPTER 22

11 USE OF DOMESTIC LABOR

12 Sec.

13 2201. Short title of chapter.

14 2202. Declaration of policy.

15 2203. Criterion for selection for certain contracts.

16 2204. Civil penalties.

17 2205. Payment under contract and action to recover

1           unauthorized payments.

2   2206.   Contract audit.

3   § 2201.   Short title of chapter.

4       This chapter shall be known and may be cited as the Keep Jobs  
5   at Home Act.

6   § 2202.   Declaration of policy.

7       The General Assembly finds and declares as follows:

8           (1)   The Commonwealth spends millions of dollars in  
9   public funds each year for a variety of services necessary to  
10   the operation and maintenance of State government.

11          (2)   The Commonwealth has an interest in ensuring that  
12   services purchased are of a high quality and recognizes the  
13   importance of providing well-paying jobs for Pennsylvania  
14   workers.

15          (3)   Increasingly, private vendors contract for  
16   governmental services or subcontract or otherwise procure  
17   these services from locations outside the United States,  
18   thereby weakening the national economy and harming this  
19   Commonwealth and its workers.

20          (4)   The primary reason for United States companies  
21   moving operations and jobs to foreign countries is to slash  
22   labor costs in order to maximize profits.

23          (5)   Such international outsourcing exacerbates  
24   unemployment and deprives job opportunities to citizens of  
25   this Commonwealth. International outsourcing wastes financial  
26   resources expended by the Commonwealth to attract and keep  
27   industries and jobs in this Commonwealth.

28          (6)   International outsourcing may provide less privacy  
29   protections for State residents whose personal information  
30   may, in the course of service delivery, be transmitted to

1 locations outside the United States.

2 (7) It is estimated that the number of United States  
3 jobs outsourced to India alone will double to about 150,000  
4 in the next three years. Analysts also predict that as many  
5 as 2,000,000 white-collar jobs in the United States, such as  
6 programmers, software engineers and application designers,  
7 will be moved to low-cost foreign countries by the year 2014.

8 (8) Citizens of this Commonwealth should have  
9 information and choice regarding the expenditure of tax  
10 dollars.

11 (9) A long list of companies headquartered in the United  
12 States, including Earthlink, Verizon, IBM, AT&T Wireless,  
13 Microsoft and EDS Corporation, have already moved jobs from  
14 the United States to offshore locations.

15 (10) Outsourcing jobs to foreign countries is  
16 detrimental to the Commonwealth economy and it is necessary  
17 to take action to ensure that contracts entered into by the  
18 Commonwealth are not awarded to contractors or subcontractors  
19 that outsource jobs to foreign countries.

20 § 2203. Criterion for selection for certain contracts.

21 (a) Policy.--In selecting a contractor to perform a contract  
22 for services pursuant to sections 513 (relating to competitive  
23 sealed proposals) and 517 (relating to multiple awards), a  
24 Commonwealth agency shall use as a criterion for selection or an  
25 evaluation factor whether all the contracted work will be  
26 performed exclusively within the geographical boundaries of the  
27 United States.

28 (b) Certification.--Those offerors or contractors who  
29 propose to perform all of the contracted work exclusively within  
30 the geographical boundaries of the United States must provide a

1 signed, written certification with their proposal.

2 (c) Evaluation.--Those offerors or contractors who provide  
3 the certification required by subsection (b) shall, in the  
4 selection process, be given all of the points allotted for the  
5 criterion/evaluation factor referred to in subsection (a), while  
6 those offerors or contractors who do not provide such  
7 certification shall receive none of the points allotted for this  
8 criterion/evaluation factor.

9 § 2204. Civil penalties.

10 (a) Right of action.--The Attorney General may bring an  
11 action for a civil penalty for falsely certifying under section  
12 2203(b) (relating to criterion for selection for certain  
13 contracts) that work covered under a proposed contract will be  
14 performed within the United States.

15 (b) Penalties.--Any contractor or subcontractor that falsely  
16 certifies under section 2203(b) that work covered under a  
17 proposed contract will be performed within the United States is  
18 subject to any or all of the following:

19 (1) The contract at issue may be declared void.

20 (2) The contractor may be debarred from doing business  
21 with the Commonwealth.

22 (3) For each violation, the contractor or subcontractor  
23 may be assessed a penalty of \$5,000, an amount equal to 20%  
24 of the value of the contract or the amount paid by the  
25 Commonwealth agency for the outsourced work, whichever is  
26 greater.

27 § 2205. Payment under contract and action to recover  
28 unauthorized payments.

29 A Commonwealth agency shall not authorize, provide for or  
30 make a payment to a person under a contract under section 2203

1 (relating to criterion for selection for certain contracts)  
2 unless the Commonwealth agency is satisfied that the person has  
3 complied with section 2203. The payment made to a person by a  
4 Commonwealth agency which should not have been made shall be  
5 recoverable directly from the contractor or subcontractor who  
6 did not comply with section 2203 by the Commonwealth agency or  
7 the Attorney General by appropriate legal action. Nothing in  
8 this section shall authorize any Commonwealth agency to initiate  
9 a legal action independently of the Attorney General unless  
10 otherwise authorized under the act of October 15, 1980 (P.L.950,  
11 No.164), known as the Commonwealth Attorneys Act.

12 § 2206. Contract audit.

13 A Commonwealth agency may audit the books and records of a  
14 contractor or any subcontractor under any negotiated contract or  
15 subcontract under section 2203 (relating to criterion for  
16 selection for certain contracts) to ensure compliance with this  
17 chapter.

18 Section 2. All acts and parts of acts are repealed insofar  
19 as they are inconsistent with this act.

20 Section 3. This act shall apply to all contracts for  
21 services entered into on or after July 1, 2004.

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