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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**  
**No. 1500** Session of  
2007

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INTRODUCED BY BENNINGTON, McCALL, BELFANTI, BLACKWELL, BRENNAN,  
BUXTON, DeWEESE, EACHUS, FABRIZIO, FRANKEL, FREEMAN, GEORGE,  
GIBBONS, GOODMAN, GRUCELA, HARKINS, JAMES, JOSEPHS, KIRKLAND,  
KORTZ, KULA, MAHONEY, MARKOSEK, MELIO, MOUL, MUNDY, MYERS,  
M. O'BRIEN, PASHINSKI, PETRONE, SANTONI, SEIP, SIPTROTH,  
K. SMITH, SOLOBAY, SURRA, THOMAS, WALKO AND YUDICHAK,  
JUNE 13, 2007

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REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 13, 2007

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AN ACT

1 Providing for maintenance of wage standards in privatization of  
2 public service contracts.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Public  
7 Services Wage Standards Act.

8 Section 2. Declaration of policy.

9 The General Assembly finds and declares that using private  
10 contractors to provide public services formerly provided by  
11 public employees does not always promote the public interest. To  
12 ensure that residents of this Commonwealth receive high-quality  
13 public services at low cost, with due regard for the taxpayers  
14 of this Commonwealth, the service recipients and the needs of  
15 public and private workers, the General Assembly finds it

1 necessary to regulate privatization contracts.

2 Section 3. Definitions.

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

6 "Agency." Includes an executive office, department,  
7 division, board, commission or other office or officer in the  
8 executive branch of the government.

9 "Employee of a private contractor." Includes a worker  
10 directly employed by a private contractor as well as an employee  
11 of a subcontractor or an independent contractor that provides  
12 supplies or services to a private contractor. The term includes  
13 former employees of a private contractor or subcontractor and  
14 former independent contractors.

15 "Person." Includes an individual, institution, Federal,  
16 State or local governmental entity or any other public or  
17 private entity.

18 "Private contractor." Any entity which enters into a  
19 privatization contract.

20 "Privatization contract." An agreement or combination or  
21 series of agreements by which a nongovernmental person or entity  
22 agrees with an agency to provide services, valued at \$100,000 or  
23 more, which are substantially similar to and in lieu of services  
24 previously provided or that could have been provided in whole or  
25 in part, by regular employees of an agency.

26 "Public record." A public record as defined in section 1 of  
27 the act of June 21, 1957 (P.L.390, No.212), referred to as the  
28 Right-to-Know Law. The term includes any document relating to  
29 the privatization contract or performance under the contract,  
30 prepared, received or retained by a contractor or subcontractor

1 whether the document be handwritten, typed, tape-recorded,  
2 printed, photocopied, photographed or recorded by any other  
3 method.

4 "Services." Includes, with respect to a private contractor,  
5 all aspects of the provision of services provided by a private  
6 contractor pursuant to a privatization contract or any services  
7 provided by a subcontractor of a private contractor.

8 "Subcontractor." A subcontractor of a private contractor for  
9 work under a privatization contract or an amendment to a  
10 privatization contract.

#### 11 Section 4. Privatization contracts and requirements.

12 (a) General rule.--No agency shall make any privatization  
13 contract and no privatization contract shall be valid unless the  
14 agency and the contractor comply with each of the requirements  
15 in this act and includes the specified provisions in the  
16 privatization contract.

17 (b) Statement of services and analysis of bids for  
18 privatization contract.--The agency shall prepare a specific  
19 written statement of the services proposed to be the subject of  
20 the privatization contract, including the specific quality and  
21 standard of quality of the subject services. The agency shall  
22 solicit competitive sealed bids for the privatization contracts  
23 based upon this statement. The day designated by the agency upon  
24 which it will accept these sealed bids shall be the same for any  
25 and all parties. This statement shall be a public record, shall  
26 be filed in the agency and shall be published in the  
27 Pennsylvania Bulletin not later than 30 business days prior to  
28 the date on which bids are due.

29 (c) Disclosure.--Every bid shall detail:

30 (1) The length of continuous employment of current

1 employees with the contractor by job classification without  
2 identifying employee names. In addition, the contractor may  
3 submit information detailing the relevant prior experience of  
4 employees within each job classification. If the positions  
5 identified by the bidder shall be newly created, the bid  
6 shall identify the minimum requirements for prospective  
7 applicants for each position.

8 (2) The annual rate of current staff turnover.

9 (3) The number of hours of training planned for each  
10 employee in subject matters directly related to providing  
11 services to residents of this Commonwealth and clients.

12 (4) Any legal complaints issued by an enforcement agency  
13 for alleged violations of applicable Federal, State or local  
14 rules, regulations or laws, including laws governing employee  
15 safety and health, labor relations and other employment  
16 requirements, and any citations, court findings or  
17 administrative findings for violations of Federal, State or  
18 local rules, regulations or laws. The information must  
19 include the date, enforcement agency, the rule, law or  
20 regulation involved and any additional information the  
21 contractor may wish to submit.

22 (5) Any collective bargaining agreements or personnel  
23 policies covering the employees to provide services to the  
24 Commonwealth.

25 (6) Political contributions made by the bidder or any  
26 employee in a management position with the bidding company,  
27 to any elected officer of the State or member of the General  
28 Assembly, during the four years prior to the due date of the  
29 bid.

30 (d) Maintenance of wage standards.--For each position in

1 which a contractor will employ any person pursuant to the  
2 privatization contract, the minimum compensation to be paid for  
3 the position shall be the greater of the wage rate paid at step  
4 one of the grade or classification under which an agency  
5 employee whose duties are most similar is paid, plus the cash  
6 value of health and other benefits provided to those State  
7 employees, or the average private sector compensation rate,  
8 including the value of health and other benefits, for the  
9 position as determined by the Department of Labor and Industry.

10 (e) Contract provisions.--A privatization contract shall  
11 contain provisions requiring the contractor to offer available  
12 employee positions pursuant to the contract to qualified regular  
13 employees of the agency whose State employment is terminated  
14 because of the privatization contract. A privatization contract  
15 shall also contain provisions requiring the contractor to comply  
16 with a policy of nondiscrimination and equal opportunity for all  
17 persons and to take affirmative steps to provide equal  
18 opportunity for all persons.

19 (f) Enforcement.--The agency may seek contractual remedies  
20 for any violation of a privatization contract. In addition, if a  
21 contractor fails to comply with subsection (d) or (e), any  
22 person or entity aggrieved by the violation may bring a claim  
23 for equitable and other relief, including back pay. In such a  
24 suit, an aggrieved person or entity shall be entitled to costs  
25 and attorney fees.

26 Section 19. Nonpreemption.

27 Nothing in this act preempts any other law and nothing in  
28 this act shall be construed or interpreted to impair or diminish  
29 in any way the authority of any locality, municipality or  
30 subdivision to enact and enforce any law which provides

1 equivalent or greater protection for its employees.

2 Section 20. Applicability.

3 This act shall apply to any privatization contract entered  
4 into after the effective date of this act.

5 Section 21. Effective date.

6 This act shall take effect in 60 days.