
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2375 Session of
2008

INTRODUCED BY JOSEPHS, DeWEESE, McCALL, SURRA, DERMODY, BUXTON,
CARROLL, CONKLIN, CURRY, FAIRCHILD, FREEMAN, GALLOWAY,
GIBBONS, GODSHALL, GOODMAN, HANNA, HARHAI, HORNAMAN,
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McILVAINE SMITH, MELIO, MUNDY, MURT, M. O'BRIEN, ROAE,
RUBLEY, SAINATO, SAMUELSON, SAYLOR, SHAPIRO, WANSACZ,
J. WHITE, YOUNGBLOOD AND D. O'BRIEN, SEPTEMBER 18, 2008

REFERRED TO COMMITTEE ON STATE GOVERNMENT, SEPTEMBER 18, 2008

AN ACT

1 Providing for banning certain payments to Commonwealth
2 employees.

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 State Agency
7 Bonus Ban Act.

8 Section 2. Definitions.

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

12 "Agency." An executive agency, an independent agency, a
13 legislative agency or a judicial agency as defined by this
14 section.

15 "Bonus." Monetary or other compensation given to an employee

1 in addition to the employee's annual salary or other rate of
2 compensation.

3 "Compensation plan." A bona fide structure of compensation
4 for services rendered, including salaries and benefits, as
5 developed and administered by an agency as authorized by
6 statute, executive order, judicial order, or developed as part
7 of personnel administration pursuant to agency policy or the
8 resolution of the Executive Board. A compensation plan may
9 include a reimbursement, stipend or similar payment to an agency
10 employee who incurs employment-related expenses.

11 "Executive agency." Any of the following:

12 (1) Any office, department, authority, board, multistate
13 agency or commission of the executive branch; and a State-
14 affiliated entity. The term includes, but is not limited to:

15 (i) The Governor's Office.

16 (ii) The Office of Attorney General, the Department
17 of the Auditor General and the Treasury Department.

18 (iii) An organization established by the
19 Constitution of Pennsylvania, a statute or an executive
20 order which performs or is intended to perform an
21 essential governmental function.

22 (2) The term does not include an independent,
23 legislative or judicial agency.

24 "Independent agency." Any board, commission or other agency
25 of the Commonwealth that is not subject to the policy
26 supervision and control of the Governor. The term does not
27 include an executive, legislative or judicial agency.

28 "Judicial agency." A court of this Commonwealth or any other
29 entity or office of the unified judicial system.

30 "Legislative agency." Any office, department, authority,

1 committee or commission of the legislative branch whether now
2 existing or created after the effective date of this section.
3 The term includes all party caucuses of the Senate and of the
4 House of Representatives. The term does not include an
5 executive, independent or judicial agency.

6 Section 3. Bonuses.

7 (a) Prohibition.--Except as set forth in subsection (b), an
8 agency may not pay a bonus to an agency employee.

9 (b) Exceptions.--Subsection (a) does not apply to any of the
10 following:

11 (1) A payment pursuant to the terms of a compensation
12 plan, employment contract, collective bargaining agreement or
13 similar instrument that functions as the equivalent of an
14 employment contract or collective bargaining agreement,
15 including:

16 (i) A severance payment or settlement agreement.

17 (ii) A payment in addition to base pay, which
18 results from a general pay increase, service increment,
19 performance-based increase or cost-of-living adjustment.

20 (iii) Any overtime or premium payment made in
21 accordance with Federal or State law, shift differential
22 payment, standby or call-time payment, hazard payment or
23 extra-duty payment.

24 (iv) A payment made for unused annual vacation,
25 personal or sick leave or other earned but unused leave.

26 (2) A payment made pursuant to an arbitration award or
27 as a result of litigation or as required by law.

28 (c) Agreements.--A compensation plan, employment contract,
29 collective bargaining agreement or similar instrument that
30 functions as the equivalent of an employment contract or

1 collective bargaining agreement shall be in writing and shall be
2 open for public inspection.

3 Section 4. Penalties.

4 (a) Employees.--

5 (1) A bonus in violation of section 3 is void.

6 (2) An agency employee who is paid a bonus in violation
7 of section 3 after the effective date of this act shall
8 reimburse the agency that made the payment for the full
9 amount of the bonus at the direction of the agency.

10 (b) Employers.--An individual who intentionally authorizes
11 the payment of a bonus in violation of section 3 without a good
12 faith belief that the payment is excepted under section 3(b)
13 commits a misdemeanor of the third degree.

14 (c) Effect on compensation.--A bonus payment made in
15 violation of section 3 as determined by the agency that made the
16 payment or by a court of competent jurisdiction shall not be
17 deemed to be compensation. Nothing in this act shall be deemed
18 to affect the definition of compensation under 71 Pa.C.S. Pt.
19 XXV (relating to retirement for State employees and officers) or
20 24 Pa.C.S. Pt. IV (relating to retirement for school employees).

21 Section 10. Effective date.

22 This act shall take effect in 60 days.