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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2626 Session of  
2012

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INTRODUCED BY BENNINGHOFF, AUMENT, BAKER, BOBACK, BRADFORD,  
CALTAGIRONE, CUTLER, DENLINGER, FLECK, GABLER, GILLEN,  
GINGRICH, GODSHALL, GROVE, HELM, HENNESSEY, HICKERNELL,  
KAMPF, KORTZ, MICOZZIE, MILLER, MILNE, QUINN, ROCK, SAYLOR,  
SCAVELLO, SWANGER, TALLMAN AND WATSON, SEPTEMBER 5, 2012

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REFERRED TO COMMITTEE ON FINANCE, SEPTEMBER 5, 2012

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AN ACT

1 Establishing the Promoting Employment Across Pennsylvania  
2 Program; and providing for tax benefits to qualified  
3 companies in the form of withholding tax relief.

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

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7 CHAPTER 1

8 PRELIMINARY PROVISIONS

9 Section 101. Short title.

10 This act shall be known and may be cited as the Promoting  
11 Employment Across Pennsylvania Act.

12 Section 102. Scope of act.

13 This act relates to fostering economic development, creating  
14 new jobs and opportunities for the citizens of this Commonwealth  
15 and providing incentives to locate business facilities, other  
16 operations and jobs in this Commonwealth.

17 Section 103. Definitions.

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

21 "Agreement." An agreement entered into under section 304.

22 "County average wage." The average annual wage paid to  
23 employees located in the county where the qualified company  
24 intends to employ new employees, as reported by the Center for  
25 Workforce Information and Analysis.

26 "Department." The Department of Community and Economic  
27 Development of the Commonwealth.

28 "High-impact project." A business development project in  
29 which a qualified company agrees to hire at least 100 new  
30 employees within five years from the date the agreement is

1 entered into under section 304.

2 "New employee." Any of the following:

3 (1) An employee who meets all of the following:

4 (i) Has never been employed by the qualified company  
5 in the qualified company's business operating in this  
6 Commonwealth during the taxable year for which benefits  
7 are sought under section 301.

8 (ii) Performs duties in this Commonwealth in  
9 connection with the business operating in this  
10 Commonwealth on:

11 (A) a regular, full-time basis; or

12 (B) a part-time basis if the individual is  
13 customarily performing the duties at least 20 hours  
14 per week throughout the taxable year.

15 (2) An individual who is acquired or relocated to this  
16 Commonwealth from another state through an expansion or  
17 relocation of a business operation, notwithstanding if the  
18 individual was previously employed by the qualified company.

19 "Qualified company." As follows:

20 (1) A for-profit corporation, partnership or other  
21 entity that makes available to its full-time employees health  
22 insurance coverage, pays at least 50% of the premium for the  
23 health insurance and meets the requirements of section 301.  
24 The term includes a company whose headquarters or  
25 administrative offices, located in this Commonwealth, serve  
26 an international or multistate territory and the company  
27 meets the requirements of section 301.

28 (2) The term shall not include any corporation,  
29 partnership or other entity which meets any of the following:

30 (i) Is identified by any of the following North

1 American Industry Classification System code groups,  
2 sectors or subsectors:

3 (A) Industry group 7132 or 8131.

4 (B) Sectors 44, 45, 61, 92 or 221, including  
5 water and sewer services.

6 (C) Subsector 722.

7 (ii) Is delinquent in the payment of any taxes or  
8 any other amounts to the Federal Government, the  
9 Commonwealth or any political subdivision.

10 (iii) Has filed for or has publicly announced its  
11 intention to file for bankruptcy protection.

12 "Third party." A third party as described under section 301.

13 "Withholding tax." The tax required to be withheld under  
14 section 316 of the act of March 4, 1971 (P.L.6, No.2), known as  
15 the Tax Reform Code of 1971.

16 CHAPTER 3

17 PROMOTING EMPLOYMENT ACROSS PENNSYLVANIA

18 Section 301. Qualification.

19 In order to qualify for benefits under this act a qualified  
20 company must relocate an existing business facility, office,  
21 department or other operation located outside this Commonwealth  
22 and the jobs from the business facility, office, department or  
23 other operation to this Commonwealth. A qualified company may  
24 meet the requirements of this section by contracting with an  
25 unrelated third party to perform services as follows:

26 (1) the third party serves as the legal employer of the  
27 new employees providing services to the qualified company;

28 (2) the services are performed in this Commonwealth; and

29 (3) the third party and the new employees are subject to  
30 withholding tax.

1 Section 302. Benefits.

2 (a) Requirement.--A qualified company that enters into an  
3 agreement must meet one of the following:

4 (1) The business operations of the qualified company  
5 must be located in a first, second or second class A county  
6 and at least 15 new employees must be hired within two years  
7 of the date the qualified company enters into the agreement.

8 (2) The business operations of the qualified company  
9 must be located in a third, fourth or fifth class county and  
10 at least ten new employees must be hired within two years  
11 from the date the qualified company enters into the  
12 agreement.

13 (3) The business operations of the qualified company  
14 must be located in a sixth, seventh or eighth class county  
15 and at least five new employees must be hired within two  
16 years from the date the qualified company enters into the  
17 agreement.

18 (b) Normal retention.--A qualified company that meets the  
19 requirements of subsection (a) shall be eligible to retain 95%  
20 of the qualified company's withholding taxes for the new  
21 employees for one of the following periods:

22 (1) Five years, if the new employees are compensated at  
23 a rate equal to at least 100% of the county average wage.

24 (2) Six years, if the new employees are compensated at a  
25 rate equal to at least 110% of the county average wage.

26 (3) Seven years, if the new employees are compensated at  
27 a rate equal to at least 120% of the county average wage.

28 (c) High-impact project retention.--A qualified company that  
29 meets the requirements of subsection (a) and engages in a high-  
30 impact project shall be eligible to retain 95% of the qualified

1 company's withholding taxes for new employees for one of the  
2 following periods:

3 (1) Seven years, if the new employees are compensated at  
4 a rate equal to at least 100% of the county average wage.

5 (2) Eight years, if the new employees are compensated at  
6 a rate equal to at least 110% of the county average wage.

7 (3) Nine years, if the new employees are compensated at  
8 a rate equal to at least 120% of the county average wage.

9 (4) Ten years, if the new employees are compensated at a  
10 rate equal to at least 140% of the county average wage.

11 (d) Third party.--If a qualified company contracts with a  
12 third party, the third party shall remit payments equal to the  
13 amount of withholding taxes the qualified company is eligible to  
14 retain under this section to the qualified company and shall  
15 report the amount to the Department of Revenue as required under  
16 section 304.

17 Section 303. Application and review.

18 (a) Application.--A qualified company that meets the  
19 requirements of section 301 may apply to the department for  
20 benefits under this act. The application shall be on a form  
21 required by the department and shall include all of the  
22 following:

23 (1) The name and address of the applicant.

24 (2) Documentation that the applicant is a qualified  
25 company.

26 (3) Documentation that the applicant meets the  
27 requirements of section 301.

28 (4) Documentation that the applicant does not owe any  
29 delinquent taxes or any other amounts to the Federal  
30 Government, this Commonwealth or any political subdivision.

1           (5) An affidavit that the applicant has not filed for or  
2 publicly announced its intention to file for bankruptcy  
3 protection.

4           (6) Any other information required by the department.

5           (b) Review.--Within 30 days of receipt of the application,  
6 the department, in conjunction with the Department of Revenue,  
7 shall review the application and determine if the applicant is a  
8 qualified company and that the requirements of section 301 have  
9 been met.

10          (c) Approval.--Upon approval of an application, the  
11 department shall notify the applicant in writing and, under  
12 section 304, enter into an agreement with the qualified company  
13 for benefits under this act. The department may enter into an  
14 agreement with a third party, or the third party may be a party  
15 to the agreement between the qualified company and the  
16 department.

17          (d) Additional benefits.--A qualified company that is  
18 receiving benefits under this act may apply to the department  
19 for additional benefits if the qualified company meets the  
20 requirements of section 301.

21 Section 304. Agreement.

22          The agreement between the qualified company and the  
23 department shall be entered into before any benefits may be  
24 provided under this act. The agreement shall do all of the  
25 following:

26           (1) Specify the terms and conditions the qualified  
27 company must comply with in order to receive benefits under  
28 this act.

29           (2) State that the department must certify all of the  
30 following to the Department of Revenue every taxable year:

1 (i) That the qualified company is eligible to  
2 receive benefits under this act.

3 (ii) The number of new employees hired by the  
4 company during the taxable year.

5 (iii) The amount of gross wages being paid to each  
6 new employee.

7 (3) Include any other information deemed necessary by  
8 the department.

9 Section 305. Recapture of withholding taxes.

10 If the qualified company fails to comply with the terms and  
11 conditions set forth in the agreement or fails to comply with  
12 this act, the department shall immediately terminate the  
13 agreement. The qualified company shall not be entitled to any  
14 further benefits provided for under this act and shall be  
15 required to remit to the Commonwealth an amount equal to the  
16 aggregate withholding taxes retained by the qualified company or  
17 remitted to the qualified company by a third party under this  
18 act as of the date the agreement is terminated.

19 Section 306. Annual form.

20 (a) Development.--The Department of Revenue, in conjunction  
21 with the department, shall develop a form which must be  
22 completed annually by any qualified company or third party that  
23 is subject to an agreement under section 304.

24 (b) Contents.--The form shall request:

25 (1) The amount of withholding tax being retained by the  
26 qualified company or remitted by a third party to the  
27 qualified company.

28 (2) The number of new employees hired.

29 (3) The wages of the new employees.

30 (4) Any other information as required by the Department



1 of Revenue and the department.

2 (c) Filing.--The qualified company or third party completing  
3 the form shall file the form with the Department of Revenue as  
4 prescribed by the Department of Revenue.

5 (d) Confidentiality.--The contents of the completed form  
6 shall be confidential except as provided under the act of March  
7 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and  
8 the act of February 14, 2008 (P.L.6, No.3), known as the Right-  
9 to-Know Law.

10 Section 307. Prohibitions.

11 A qualified company claiming benefits under this act may not  
12 do any of the following:

13 (1) Participate in any program in which any portion of  
14 the qualified company's withholding taxes have been pledged  
15 to finance indebtedness or transferred to or for the benefit  
16 of the qualified company.

17 (2) Claim any payments or credits authorized by the  
18 General Assembly or any other program established by the  
19 Commonwealth, if the payments or credits would be earned for  
20 the hiring of new employees.

21 Section 308. Administration and regulation.

22 The department, in conjunction with the Department of  
23 Revenue, shall adopt guidelines necessary to implement and  
24 administer this act.

25 Section 309. Review.

26 (a) Duty.--The department shall conduct an annual review of  
27 the activities undertaken by a qualified company under this act  
28 to ensure that the qualified company is in compliance with this  
29 act, any guidelines adopted under section 308 and any agreement.

30 (b) Inspection.--The books and records concerning employment

1 and wages of any employees for which the qualified company or  
2 third party has retained any withholding taxes shall be  
3 available for inspection by the department at all times during  
4 business hours. The department may request the Department of  
5 Revenue to audit the qualified company or third party for  
6 compliance with this act.

7 Section 310. Report to General Assembly.

8 (a) Duty.--The department shall submit an annual report to  
9 the General Assembly indicating the effectiveness of the tax  
10 benefits provided by this act no later than March 15 following  
11 the year in which the benefits were approved. The report shall  
12 include the following information:

13 (1) The names of all qualified companies and taxpayers  
14 utilizing the benefit as of the date of the report.

15 (2) The types of qualified companies utilizing this act.

16 (3) The location of the qualified companies and the  
17 location of the qualified companies' business operations in  
18 this Commonwealth.

19 (4) The number of new employees hired.

20 (5) The wages paid for the new employees.

21 (6) The annual amount of benefits provided under this  
22 act.

23 (7) The estimated net Commonwealth fiscal impact,  
24 including the direct and indirect new Commonwealth taxes  
25 derived from the new employees hired.

26 (8) An estimate of the multiplier effect on the  
27 Commonwealth's economy of the benefits received under this  
28 act.

29 (b) Confidentiality.--Notwithstanding any law providing for  
30 the confidentiality of tax records, the information contained in

1 the report shall be public information. The report shall include  
2 any recommendations for changes in the calculation or  
3 administration of the benefit.

4 CHAPTER 51

5 MISCELLANEOUS PROVISIONS

6 Section 5101. Effective date.

7 This act shall take effect in 60 days.