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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2640 Session of  
2020

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INTRODUCED BY A. DAVIS, DEASY, RAVENSTAHL, READSHAW, T. DAVIS,  
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D. MILLER, INNAMORATO, NEILSON AND CIRESI, JUNE 29, 2020

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 29, 2020

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AN ACT

1 Establishing the Direct Care Worker Wage Advisory Board and  
2 providing for its powers and duties; and providing for  
3 minimum wage for direct care workers and for a direct care  
4 worker registry.

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 Good Jobs for  
9 Quality Care Act.

10 Section 2. Definitions.

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

14 "Board." The Direct Care Worker Wage Advisory Board.

15 "Department." The Department of Human Services of the  
16 Commonwealth.

17 "Direct care worker." An individual employed in long-term  
18 care in a home setting, community-based facility or a nursing

1 home, providing hands-on care, services and support to elderly  
2 individuals and individuals with disabilities. The term  
3 includes, but is not limited to, all of the following:

- 4 (1) Personal care aides.
- 5 (2) Home health aides.
- 6 (3) Nursing assistants.
- 7 (4) Certified nursing assistants.
- 8 (5) Attendants.
- 9 (6) Assisted living aides.
- 10 (7) Home health aides.
- 11 (8) Home care aides.
- 12 (9) Nurse aides.
- 13 (10) Program assistants.

14 "Direct care worker organization." An organization that  
15 represents direct care workers in which direct care workers  
16 participate and which exists for the purpose, in whole or in  
17 part, of dealing with employers concerning grievances, labor  
18 disputes, wages, rates of pay, hours of employment or conditions  
19 of work but shall not include labor organizations which, by  
20 ritualistic practice, constitutional or by-law proscription, by  
21 tacit agreement among its members, or otherwise, denies a person  
22 membership in its organization on account of race, creed, color  
23 or political affiliation.

24 "Secretary." The Secretary of Human Services of the  
25 Commonwealth.

26 "Wage." Compensation for a direct care worker by reason of  
27 the direct care worker's employment, payable in legal tender of  
28 the United States or checks on banks convertible into cash on  
29 demand at full face value, subject to deductions, charges or  
30 allowances as may be permitted by regulations of the secretary

1 under this act.

2 Section 3. Direct Care Worker Wage Advisory Board.

3 (a) Establishment.--The Direct Care Worker Wage Advisory  
4 Board is established in the department to examine challenges to  
5 recruiting and retaining direct care workers, including, but not  
6 limited to, compensation, work schedules and other working  
7 conditions, and to recommend regulations for the industry.

8 (b) Composition of board.--The board shall consist of the  
9 following members:

10 (1) The secretary, or a representative of the secretary.

11 (2) The Secretary of Labor and Industry, or a  
12 representative of the Secretary of Labor and Industry.

13 (3) The following members, who must be residents of this  
14 Commonwealth, appointed by the secretary:

15 (i) One member who represents an established,  
16 recognized direct care worker organization.

17 (ii) One member who is a direct care worker at a  
18 nursing home.

19 (iii) One member who is a direct care worker  
20 employed as a home care services provider.

21 (iv) One member who is a nursing home employer.

22 (v) One member who is a home care employer.

23 (vi) One member who represents the interests of  
24 individuals receiving direct care worker services.

25 (vii) One member who represents providers of direct  
26 care workforce development and training for direct care  
27 workers.

28 (c) Recommendations.--The secretary shall solicit  
29 recommendations of qualified individuals for board membership  
30 from any source, including a direct care worker organization

1 that maintains a membership of at least 1,000 members. If the  
2 secretary does not receive a sufficient number of  
3 recommendations, the secretary may appoint any remaining  
4 positions on the board, in any combination, from the following:

5 (1) An employer who employs direct care workers.

6 (2) A labor organization that represents the interests  
7 of direct care workers.

8 (3) A representative of a direct care facility or other  
9 facility that is responsible for individuals receiving long-  
10 term care services.

11 (d) Term.--A board member appointed under subsection (b) (1)  
12 or (2) shall serve a term concurrent with the member's term of  
13 office or concurrent with the term of office of the member's  
14 appointing official. A board member appointed under subsection  
15 (b) (3) shall serve a term of two years and until a successor is  
16 appointed. A member of the board may be reappointed. After the  
17 appointment of the initial board members, successor board  
18 members under subsection (b) (3) shall be appointed by a majority  
19 vote of the board members, before the expiration of the term of  
20 a member, but not later than January 1 of each even-numbered  
21 year.

22 Section 4. Powers and duties of board.

23 (a) General rule.--The board shall:

24 (1) Consult with the secretary and make findings  
25 regarding factors that may contribute to a shortage of  
26 skilled direct care workers, including, but not limited to:

27 (i) Compensation rates.

28 (ii) Lack of health care benefits or other paid  
29 benefits, including, but not limited to, paid family  
30 leave, sick leave or retirement benefits.

1 (2) Make recommendations regarding:

2 (i) A compensation schedule for direct care workers  
3 and increases to the hourly minimum wage paid to direct  
4 care workers.

5 (ii) Uniform standards for training and education  
6 for direct care workers.

7 (iii) Improvements to working conditions, including  
8 work schedules and workplace standards relating to  
9 safety.

10 (3) Submit to the General Assembly no later than  
11 December 31 of each year a report that includes the findings  
12 and recommendations of the board. The board shall include in  
13 the annual report the recommended compensation schedule  
14 described in paragraph (2) (i).

15 (4) Receive complaints from direct care workers and  
16 refer complaints to the appropriate State agency or law  
17 enforcement agency.

18 (b) Public meetings.--The meetings of the board shall be  
19 open to the public under 65 Pa.C.S. § 704 (relating to open  
20 meetings).

21 (c) Advisors.--The board may employ a professional  
22 researcher to serve in an advisory capacity to the board. The  
23 board may employ and compensate employees and other advisors as  
24 the board deems necessary and appropriate.

25 (d) Compensation and expenses.--

26 (1) Members of the board shall receive compensation as  
27 the board determines is necessary and shall be reimbursed for  
28 reasonable expenses incurred in the exercise of board duties.

29 (2) An employer of a direct care worker who serves as a  
30 member of the board shall grant reasonable leave to the

1 worker to participate in board activities without loss of  
2 compensation.

3 (3) An employer may not penalize or retaliate against a  
4 direct care worker because of the worker's participation in  
5 any of the activities of the board.

6 (4) The secretary may assess a civil penalty in an  
7 amount determined by the secretary against an employer who  
8 violates this subsection. Money collected as penalties under  
9 this paragraph shall be paid to the department to reimburse  
10 the board for the costs incurred by the board in performing  
11 its duties.

12 Section 5. Minimum wage.

13 (a) General rule.--Upon consideration of the compensation  
14 schedule submitted under section 4(a)(3), the secretary shall  
15 establish by regulation a minimum wage rate at which direct care  
16 workers shall be paid, provided that the rate established by the  
17 secretary is not less than the hourly minimum wage rate that is  
18 required under the act of January 17, 1968 (P.L.11, No.5), known  
19 as The Minimum Wage Act of 1968.

20 (b) Limitation.--Once the minimum wage rate is established  
21 under subsection (a), the rate may not be lowered unless  
22 approved by a unanimous vote of the board.

23 (c) Penalties.--An employer who fails to pay the minimum  
24 wage rate established under subsection (a) is subject to a fine  
25 of \$1,000 for the first violation, \$5,000 for the second  
26 violation and \$10,000 for each subsequent violation to be  
27 assessed by the department.

28 (d) Civil actions.--If a direct care worker is paid by the  
29 employer of the direct care worker less than the minimum wage  
30 rate established in subsection (a), the direct care worker may

1 recover in a civil action the full amount of the minimum wage  
2 rate, less any amount actually paid to the worker by the  
3 employer, together with costs and reasonable attorney fees as  
4 may be allowed by the court.

5 Section 6. Registry.

6 (a) Registry.--The board shall create a registry of direct  
7 care workers in this Commonwealth. An employer of a direct care  
8 worker shall provide quarterly to the registry contact  
9 information for the direct care worker and the direct care  
10 worker's workplace, including a telephone number and e-mail  
11 address, and other information as determined by the board.

12 (b) Registry access.--

13 (1) The registry shall only be available to direct care  
14 worker organizations. A direct care worker organization and  
15 direct care workers are permitted to communicate for purposes  
16 of the registry.

17 (2) It is a violation for an employer to not permit  
18 communication between a direct care worker organization and  
19 direct care workers under paragraph (1).

20 (3) Registry information shall be exempt from access  
21 under the act of February 14, 2008 (P.L.6, No.3), known as  
22 the Right-to-Know Law.

23 (4) For a violation of this subsection, the department  
24 may assess a penalty of \$1,000 for the first violation,  
25 \$5,000 for the second violation and \$10,000 for each  
26 subsequent violation.

27 Section 7. Voluntary deduction of dues.

28 (a) General rule.--Within 30 days of receipt of a written  
29 affirmation of a direct care worker, an employer shall make  
30 deductions from the direct care worker's paycheck and remit the

1 deductions to the direct care worker organization. A direct care  
2 worker organization shall provide any necessary information to  
3 the employer in order to receive paycheck deductions from an  
4 employer.

5 (b) Violations.--An employer who fails to comply with  
6 subsection (a) shall be subject to a fine of \$1,000 for a first  
7 violation, \$5,000 for a second violation and \$10,000 for each  
8 subsequent violation to be assessed by the department.

9 Section 8. Regulations.

10 The department may promulgate rules and regulations as  
11 necessary to administer and enforce this act.

12 Section 9. Effective date.

13 This act shall take effect immediately.