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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2130 Session of  
2015

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INTRODUCED BY CUTLER, D. MILLER, QUIGLEY, McNEILL, BOBACK,  
STEPHENS, CALTAGIRONE, MILLARD, GIBBONS, O'NEILL, THOMAS,  
PICKETT, JOZWIAK, ROZZI, MURT, WARD, YOUNGBLOOD, ORTITAY,  
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PHILLIPS-HILL, WATSON, MILNE, MALONEY, KAUFER, DeLUCA, FEE,  
SCHEMEL, DiGIROLAMO, DeLISSIO AND KORTZ, JUNE 9, 2016

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, JUNE 9, 2016

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AN ACT

1 Providing for competitive employment in an integrated setting in  
2 State, county and local agencies for individuals with  
3 disabilities; establishing the Employment First Program, the  
4 Employment First State Coordinating Council and the  
5 Employment First Oversight Commission and providing for their  
6 powers and duties; and conferring powers and imposing duties  
7 on the Governor and the Office of the Governor.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known as and may be cited as the Employment  
12 First Act.

13 Section 2. Declaration of policy.

14 The General Assembly finds and declares as follows:

15 (1) It is the purpose of this act to ensure that  
16 individuals with disabilities be given the opportunity to  
17 achieve economic independence through jobs that pay regular  
18 wages in typical community settings.

1 (2) The current work force participation rate for  
2 individuals with disabilities is 20%.

3 (3) All individuals are initially presumed competent and  
4 able and should be afforded the opportunity to work.

5 (4) Significant changes have occurred and are continuing  
6 to evolve with advances in effective support strategies and  
7 technology.

8 (5) Each year throughout this Commonwealth, thousands of  
9 high school students with disabilities who use 504 plans or  
10 qualify under the Americans with Disabilities Act of 1990  
11 (Public Law 101-336, 104 Stat. 327) graduate from special  
12 education programs and are ready and able to work at  
13 competitive wages in private and public sector jobs.

14 (6) The Commonwealth can realize a return on its  
15 significant investment in young adults with disabilities who  
16 have benefited from a free and appropriate public education  
17 and other State services by adopting policies that further  
18 the goal of competitive employment in an integrated setting  
19 for individuals with disabilities.

20 (7) Hundreds of thousands of job openings are listed  
21 every day, reflecting the challenges faced by employers in  
22 finding and keeping a dedicated work force, challenges that  
23 could be resolved, in part, through the hiring of individuals  
24 with disabilities.

25 (8) Recognition and furtherance of the benefits of  
26 meaningful work applies to all working individuals, including  
27 the opportunity for competitive employment in an integrated  
28 setting for individuals with disabilities.

29 Section 3. Definitions.

30 The following words and phrases when used in this act shall

1 have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Competitive employment." Work in the labor market:

4 (1) that is performed on a full-time or part-time basis  
5 in an integrated setting; and

6 (2) for which an individual is compensated at or above  
7 the minimum wage and not less than the customary wage and  
8 level of benefits paid by the employer for the same or  
9 similar work performed by individuals who do not have  
10 disabilities.

11 "Commission." The Employment First Oversight Commission  
12 established under section 6.

13 "Council." The Employment First State Coordinating Council  
14 established under section 5.

15 "Disability." Either of the following:

16 (1) A documented physical or mental impairment that  
17 substantially limits one or more major life activities of an  
18 individual.

19 (2) A documented impairment as defined by the Americans  
20 with Disabilities Act of 1990 (Public Law 101-336, 104 Stat.  
21 327), including veterans' service-connected disabilities.

22 "Integrated setting." With respect to employment, a setting  
23 in which individuals with disabilities work with individuals  
24 without disabilities, other than those individuals who are  
25 providing services to the individuals with disabilities, to the  
26 same extent that individuals without disabilities in comparable  
27 positions interact with other individuals.

28 "Program." The Employment First Program established under  
29 section 4.

30 Section 4. Employment First Program.

1 (a) Establishment.--The Employment First Program is  
2 established. The program shall require practicable:

3 (1) competitive employment in an integrated setting for  
4 all working age adults and youths with disabilities,  
5 regardless of the severity of the disability and the  
6 assistance required; and

7 (2) employment services and opportunities to be offered  
8 for all individuals receiving publicly funded services,  
9 regardless of whether they live in their own home or in a  
10 residential setting and without regard to the type of service  
11 funding.

12 (b) Implementation.--State, county and local agencies that  
13 provide services and support to individuals with disabilities of  
14 working age shall comply with the requirements of the program  
15 and ensure that the requirements of the program are effectively  
16 implemented in agency programs and services to the extent  
17 practicable.

18 (c) Collaboration.--State, county and local agencies that  
19 provide services and support to individuals with disabilities  
20 shall coordinate efforts and collaborate within and among such  
21 agencies to ensure that State programs, policies, procedures and  
22 funding support competitive employment in an integrated setting  
23 for individuals with disabilities of working age.

24 (d) Policies.--State, county and local agencies shall review  
25 their respective policies relating to payment of service  
26 providers to align payment policies with the requirements of the  
27 program. State, county and local agencies shall ensure that  
28 providers of service coordination, case management and  
29 authorization services funded through the State Medicaid  
30 program, including home and community-based waiver programs,

1 receive financial incentives that support the placement and  
2 continued employment of individuals with disabilities in  
3 competitive employment in an integrated setting.

4 (e) Staff.--State, county and local agencies shall implement  
5 the requirements of the program with trained and certified staff  
6 that meet the competencies of national standards, including  
7 certification as a Certified Employment Support Professional or  
8 membership in the Association of Community Rehabilitation  
9 Educators.

10 (f) Assessment.--State, county and local agencies shall  
11 develop clear outcome expectations for employment that include  
12 annual baseline employment data and specific percentage goals  
13 for individuals gaining competitive employment in integrated  
14 settings. On an annual basis, each agency shall complete an  
15 assessment of its progress toward meeting these goals and ensure  
16 that the information is publicly available and posted on its  
17 publicly accessible Internet website.

18 (g) Progress.--State agencies are authorized to share  
19 general, nonindividualized data and information across systems  
20 in an effort to track progress toward full implementation of the  
21 the requirements of the program. State agencies are encouraged  
22 to adopt measurable goals and objectives to promote the  
23 assessment of progress under this subsection.

24 (h) State agency compliance.--The following shall apply:

25 (1) State agencies shall make an effort to employ  
26 individuals with disabilities in no less than 7% of the  
27 overall State work force.

28 (2) No State agency shall be required to give preference  
29 in hiring to individuals with disabilities.

30 (3) The State Civil Service Commission shall review and

1 consider changes in its policies and procedures in order to  
2 support progress towards the initial goal established under  
3 this subsection.

4 (i) Initial plan.--No later than one year after the  
5 effective date of this subsection, the Office of the Governor  
6 shall develop an initial three-year plan for the program for  
7 submission to the General Assembly. The plan shall identify the  
8 specific policies and implementation dates for State agency  
9 compliance with this act.

10 (j) Annual report.--The assessment information compiled by  
11 each State, county and local agency under subsections (f) and  
12 (g) and any other information deemed necessary shall be sent to  
13 the Governor's Office of Policy and Planning no later than  
14 August 1 of each year for consideration and inclusion in an  
15 annual report by the Office of the Governor to the General  
16 Assembly that documents continued and improved State, county and  
17 local agency compliance with this act. The report shall be  
18 submitted to the General Assembly no later than November 30 of  
19 each year.

20 Section 5. Employment First State Coordinating Council.

21 (a) Establishment.--The Governor shall establish the  
22 Employment First State Coordinating Council, which shall be  
23 chaired by a senior official in the Governor's Office of Policy  
24 and Planning. The Governor shall appoint the members of the  
25 council, which shall consist of the officials provided under  
26 subsection (b).

27 (b) Composition.--The council shall consist of the following  
28 officials, who may not delegate their duties to other officials,  
29 except for good cause:

30 (1) A Deputy Secretary in the Governor's Office of

1 Policy and Planning.

2 (2) The Executive Deputy Secretary of the Department of  
3 Education.

4 (3) The Deputy Secretary for Elementary and Secondary  
5 Education in the Department of Education.

6 (4) The Director of the Bureau of Special Education in  
7 the Department of Education.

8 (5) The Executive Deputy Secretary of the Department of  
9 Human Services.

10 (6) The Deputy Secretary of the Office of Developmental  
11 Programs in the Department of Human Services.

12 (7) The Deputy Secretary of the Office of Mental Health  
13 and Substance Abuse Services in the Department of Human  
14 Services.

15 (8) The Deputy Secretary of the Office of Long-Term  
16 Living in the Department of Human Services.

17 (9) The Executive Deputy Secretary of the Department of  
18 Labor and Industry.

19 (10) The Deputy Secretary for Workforce Development of  
20 the Department of Labor and Industry.

21 (11) The Executive Director of the Office of Vocational  
22 Rehabilitation of the Department of Labor and Industry.

23 (c) Powers and duties.--The council shall have the following  
24 powers and duties:

25 (1) Conduct:

26 (i) a detailed review of existing regulations,  
27 policies and procedures relating to the goal of  
28 competitive employment in an integrated setting for high  
29 school graduates with disabilities; and

30 (ii) a review and alignment of service definitions,

1 policies and payment structures within and across State  
2 agencies.

3 (2) Develop:

4 (i) recommendations to the Governor, the Secretary  
5 of Education, the Secretary of Human Services and the  
6 Secretary of Labor and Industry for changes in  
7 regulations, policies and procedures necessary to ensure  
8 the robust implementation of the program; and

9 (ii) recommendations to the Governor for any  
10 legislative changes necessary to support and implement  
11 this act.

12 (d) Collaboration.--The council shall ensure that agreements  
13 among local entities of the State agencies are developed and  
14 adopted to ensure appropriate collaboration among agencies at  
15 regional and local levels across this Commonwealth.

16 (e) Meetings.--The council shall meet quarterly and shall be  
17 responsible for coordinating the development of policies  
18 designed to implement this act by all State agencies providing  
19 services to individuals with disabilities.

20 Section 6. Employment First Oversight Commission.

21 (a) Establishment and composition.--An independent  
22 Employment First Oversight Commission is established. The  
23 commission shall consist of the following members, who shall  
24 serve for a three-year term:

25 (1) Four members, not under the employ of the  
26 Commonwealth, who are individuals with a disability or  
27 individuals who are knowledgeable about the employment of  
28 individuals with a disability. The following shall apply:

29 (i) One shall be appointed by the President pro  
30 tempore of the Senate.



1           (ii) One shall be appointed by the Minority Leader  
2 of the Senate.

3           (iii) One shall be appointed by the Speaker of the  
4 House of Representatives.

5           (iv) One shall be appointed by the Minority Leader  
6 of the House of Representatives.

7           (2) Two individuals with disabilities, appointed by the  
8 Governor.

9           (3) Two parents or family members of individuals with  
10 disabilities, appointed by the Governor.

11           (4) Two individuals who have successful experience in  
12 providing services and support to high school students and  
13 recent graduates with disabilities leading to competitive  
14 employment in an integrated setting, appointed by the  
15 Governor.

16           (5) A representative of Disabilities Rights  
17 Pennsylvania, appointed by the Governor.

18           (6) A representative of the Pennsylvania Rehabilitation  
19 Council, appointed by the Governor.

20           (7) A representative of the Pennsylvania Statewide  
21 Independent Living Council, appointed by the Governor.

22           (8) A representative of a State association of  
23 accredited employment providers, appointed by the Governor.

24           (b) Meetings.--The Governor shall designate one member to  
25 convene and organize the first meeting of the commission at  
26 which the commission shall elect a chairperson and such other  
27 officers as it deems necessary from among its members. The  
28 commission shall meet at least four times each year or at the  
29 call of the chairperson. A quorum shall consist of a majority of  
30 the members of the commission. All actions of the commission

1 shall be taken only after approval by a majority vote of the  
2 members present after a quorum is established during a lawful  
3 meeting of the commission.

4 (c) Reimbursement.--Each member of the commission shall be  
5 reimbursed normal and customary travel expenses in accordance  
6 with Commonwealth travel policies for attendance at meetings of  
7 the commission.

8 (d) Progress.--The commission shall establish measurable  
9 goals and objectives governing the implementation of this act.  
10 The commission shall track the measurable progress of public  
11 agencies in implementing this act. All State agencies shall  
12 fully cooperate with and provide data and information to assist  
13 the commission in carrying out its duties.

14 (e) Annual report.--The commission shall issue an annual  
15 report on October 1 of each year, detailing the progress made on  
16 each of the measurable goals and objectives during the preceding  
17 fiscal year. The annual report shall also include  
18 recommendations to the Governor and the General Assembly for  
19 effective strategies and policies needed to support the  
20 implementation of this act.

21 (f) Support.--The Office of the Governor shall ensure that  
22 reasonable staff and support are made available to the  
23 commission to carry out its duties under this section. The  
24 Office of the Governor shall also ensure that administrative  
25 costs, including money for travel expenses authorized under  
26 subsection (c) and money for the distribution of the annual  
27 report and other related administrative costs, are made  
28 available to enable the commission to carry out its duties under  
29 this section. The commission may seek the attendance and  
30 participation of members of the council in meetings of the

1 commission in order to assist the commission in carrying out its  
2 responsibilities under this section.

3 Section 7. Training and outreach.

4 All State agencies providing services to individuals with  
5 disabilities of working age shall establish systems of outreach  
6 and training that provide information to the following  
7 individuals about the program and available opportunities for  
8 participation in competitive employment in an integrated  
9 setting:

10 (1) Individuals with disabilities and their families.

11 (2) Providers of employment services for individuals  
12 with disabilities.

13 (3) Education, vocational rehabilitation and human  
14 service officials responsible for services to individuals  
15 with disabilities.

16 Section 8. Applicability.

17 Nothing under this act shall be interpreted to supersede or  
18 preempt Federal, State or local law. This act is not intended to  
19 and does not create a prohibition of existing employment options  
20 and opportunities or of the informed choices of individuals with  
21 disabilities made through a person-centered planning process.

22 Section 9. Effective date.

23 This act shall take effect in 60 days.