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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 361 Session of  
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INTRODUCED BY PISCIOTTANO, SIEGEL, MADDEN, PROBST, McNEILL,  
SANCHEZ, BENHAM, MARKOSEK, KINSEY, SCHLOSSBERG, PARKER,  
HOHENSTEIN, HILL-EVANS, KINKEAD, NEILSON, DEASY, DELLOSO,  
HOWARD, WARREN, KHAN AND KAZEEM, MARCH 14, 2023

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REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, MARCH 14, 2023

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AN ACT

1 Establishing the Prevailing Wage Co-Enforcement Program; and  
2 providing for duties of the Department of Labor and Industry  
3 and participants in the Prevailing Wage Co-Enforcement  
4 Program.

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 Prevailing  
9 Wage Co-Enforcement 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 "Department." The Department of Labor and Industry of the  
15 Commonwealth.

16 "Pennsylvania Prevailing Wage Act." The act of August 15,  
17 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing  
18 Wage Act.

1 "Public body." As defined in section 2(4) of the  
2 Pennsylvania Prevailing Wage Act.

3 "Public work." As defined in section 2(5) of the  
4 Pennsylvania Prevailing Wage Act.

5 "Secretary." The Secretary of Labor and Industry of the  
6 Commonwealth.

7 "Worker." The term shall have the same meaning as the term  
8 "workman" in section 2(7) of the Pennsylvania Prevailing Wage  
9 Act.

10 Section 3. Establishment of Prevailing Wage Co-Enforcement  
11 Program.

12 The Prevailing Wage Co-Enforcement Program is established  
13 within the department for the purpose of training volunteers to  
14 identify violations of the Pennsylvania Prevailing Wage Act.

15 Section 4. Duties of department and program participants.

16 (a) Authorization.--A program participant may conduct labor  
17 compliance site visits, interview workers on public work project  
18 sites and assist with audits and hearings under the direction of  
19 the department in any of the following circumstances:

20 (1) When a public body alerts the department that  
21 problems or potential problems exist at a particular public  
22 work project site.

23 (2) When a worker alerts the program participant of a  
24 potential violation of the Pennsylvania Prevailing Wage Act.

25 (3) During routine monitoring activities, including  
26 sweeps and surveillance activities conducted by the  
27 department.

28 (4) When a public body alerts the program participant  
29 about a potential area of interest.

30 (b) Information exchange.--The department shall contact a

1 program participant as the department deems necessary to  
2 exchange relevant information for the purpose of identifying  
3 violations of the Pennsylvania Prevailing Wage Act.

4 (c) Requirements.--A program participant shall comply with  
5 all of the following requirements:

6 (1) The program participant shall attend an orientation  
7 about the program offered by the department before engaging  
8 in an act authorized under subsection (a). The department  
9 shall update the orientation under this paragraph as the  
10 department deems necessary to conform to the provisions of  
11 this act.

12 (2) The program participant may not accept or solicit a  
13 payment for engaging in an act authorized under subsection  
14 (a) on a public work project site.

15 (3) While on a public work project site, the program  
16 participant shall wear a department-issued identification  
17 badge above the waist that is attached to a clip, in a clear  
18 plastic holder and on a lanyard or other clearly visible  
19 device. The program participant may only use the  
20 identification badge while monitoring a public work project  
21 site or engaging in an act authorized under subsection (a).

22 (4) Before visiting a public work project site, the  
23 program participant shall notify the secretary. Upon entering  
24 a public work project site, the program participant shall  
25 notify the superintendent or inspector at the public work  
26 project site before engaging in an act authorized under  
27 subsection (a).

28 (5) The program participant may not disclose a  
29 determination under section 12 of the Pennsylvania Prevailing  
30 Wage Act to a worker on a public work project site.

1           (6) The program participant shall record each interview  
2 with a worker and each observation at a public work project  
3 site on a form prescribed by the department. No later than  
4 48 hours after recording an interview or observation on a  
5 form under this paragraph, the program participant shall  
6 submit a copy of the form to the department. A form under  
7 this paragraph shall be considered property of the  
8 department.

9           (7) The program participant shall provide a copy of each  
10 complaint or job start checklist received from a worker,  
11 contractor or subcontractor on a public work project site to  
12 the department within 48 hours of receipt. A copy of the  
13 complaint or job start checklist under this paragraph shall  
14 be considered property of the department.

15           (8) While on a public work project site, the program  
16 participant may not record a video or photograph on public  
17 property without the consent of the secretary. A recorded  
18 video or photograph authorized under this paragraph shall be  
19 considered property of the department. The program  
20 participant shall submit a recorded video or photograph  
21 authorized under this paragraph to the department within 24  
22 hours of recording the video or taking the photograph. The  
23 program participant may not copy a recorded video or  
24 photograph authorized under this paragraph without the  
25 consent of the department.

26           (d) Entry to project sites.--The department, a department  
27 employee or a program participant shall be able to freely enter  
28 a public work project site for the purpose of engaging in an act  
29 authorized under subsection (a) and may not be unreasonably  
30 denied entry to the public work project site. While on the

1 public work project site, the program participant may be  
2 required to check in with the public work project site  
3 supervisor upon arrival and shall comply with all public work  
4 project site safety protocols.

5 (e) Access to project sites.--A program participant shall  
6 have access to a public work project site for the sole purpose  
7 of engaging in an act authorized under subsection (a). If the  
8 program participant acts in a manner that would constitute a  
9 conflict of interest with a public body, including representing  
10 a party that is engaged in a legal action against the public  
11 body, the department shall remove the individual from  
12 participation in the program.

13 Section 5. Prohibited activities of program participants.

14 A program participant may not represent an organized labor  
15 union as prohibited under this section. If the program  
16 participant represents a labor union as prohibited under this  
17 section, the department shall remove the individual from  
18 participation in the program. The program participant may not  
19 engage in any of the following activities:

20 (1) Wear labor union attire, including a jacket,  
21 sweatshirt, t-shirt, cap or hat.

22 (2) Distribute labor union literature, including a  
23 pamphlet, leaflet or meeting notice.

24 (3) Make disparaging remarks regarding a nonlabor union  
25 contractor.

26 (4) Engage in an act that can be interpreted as pro labor  
27 union, labor union promotion or badgering a nonlabor union  
28 contractor.

29 (5) Gather intelligence or documentation for labor union  
30 purposes.

1 (6) Review project data which is not associated with a  
2 pending or active complaint or investigation recognized by  
3 the department.

4 (7) Engage in an act associated with a project labor  
5 agreement, including requesting or gathering information  
6 regarding project funding, bid tabulation, contracts, project  
7 scope or specifications or substitution requests.

8 (8) Hold oneself out as a public body employee to a  
9 public work site superintendent, inspector, staff, employee  
10 or consultant or any member of the public.

11 Section 6. Exclusion from program participation.

12 The department may exclude any of the following from  
13 participation in the program:

14 (1) An individual who acts in a manner that constitutes  
15 a conflict of interest with the department or a public body  
16 as specified under section 4(e).

17 (2) An individual who represents an organized labor  
18 union as prohibited under section 5.

19 Section 7. Investigation of public work project sites.

20 (a) Determination.--Within 120 days of receiving all the  
21 required documentation from a program participant under this  
22 act, the department shall conduct a review of the documentation  
23 and make a written determination on whether the program  
24 participant should institute an investigation of the public work  
25 project site. If the department determines that no investigation  
26 is required, the department shall provide the reasoning for the  
27 determination.

28 (b) Conduct of investigation.--A program participant shall  
29 conduct an investigation under subsection (a) in a manner that  
30 is not subject to political influence, political intention or

1 political motivation. If an investigation under subsection (a)  
2 is determined by the department to be subject to political  
3 influence, political intention or political motivation after a  
4 formal hearing that allows the program participant to present  
5 evidence in the program participant's defense, the department  
6 shall bar the individual from participating in the program for  
7 up to five years. If a program participant is determined by the  
8 department to have conducted more than one investigation under  
9 subsection (a) that is subject to political influence, political  
10 intention or political motivation, the department shall  
11 permanently bar the individual from participation in the  
12 program.

13 Section 8. Regulations.

14 The department shall promulgate rules and regulations as  
15 necessary to carry out the department's duties under this act,  
16 which shall include the criteria and minimum qualifications that  
17 an individual is required to meet to participate in the program.

18 Section 9. Effective date.

19 This act shall take effect in 60 days.