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COMMERCE, REGULATION & LABOR

HOUSE FILE 632

BY SHOULTZ

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the enactment of a state living wage and
2 providing effective and applicability dates.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF632

1 Section 1. NEW SECTION. 91D.2 LIVING WAGE REQUIREMENTS.

2 1. INTENT. It is the intent of the general assembly in
3 enacting this section to recognize that:

4 a. The award of contracts for services by the state
5 results in the indirect employment of thousands of individuals
6 by the state who are paid subpoverty level wages.

7 b. The creation or promotion of jobs that pay subpoverty
8 level wages is a short-sighted economic and social policy in
9 that such jobs do not lead to a self-sufficient workforce or
10 support sustainable community development but instead increase
11 the need for government services, such as public assistance
12 for food, housing, and health and child care.

13 c. The state is not an innocent bystander in the payment
14 of subpoverty level wages and it is appropriate for the state
15 to require that contractors who are awarded state contracts
16 pay at least a living wage.

17 2. PURPOSE. The purpose of this section is to increase
18 the wages of service employees who indirectly work for the
19 state through their employment by state contractors, in order
20 to improve the health and welfare of the state's employees,
21 promote the economic strength of our society, and alleviate
22 pressure on state social service programs.

23 3. DEFINITIONS. As used in this section, unless the
24 context otherwise requires:

25 a. "Basic health insurance benefits" means an insurance
26 plan that meets all of the following criteria:

27 (1) The employer pays one hundred percent of the premium
28 for individual coverage for an employee or eighty percent of
29 the premium for family coverage for the employee and the
30 employee's family.

31 (2) The insurance plan covers at least eighty percent of
32 the cost of office visits, emergency care, surgical care, and
33 prescriptions.

34 (3) The insurance plan has an annual deductible of not
35 more than one thousand dollars.

1 b. "Commissioner" means the labor commissioner or the
2 commissioner's designee.

3 c. "Person" means as defined in section 4.1.

4 d. "State" means the state of Iowa or a state agency,
5 office, department, executive board, bureau, or commission of
6 the state.

7 e. "State contract" means either of the following:

8 (1) A contract for services awarded by the state with an
9 estimated cost of one hundred thousand dollars or more.

10 (2) A subcontract for services with an estimated cost of
11 twenty-five thousand dollars or more that is awarded by a
12 state contractor who holds a contract for services awarded by
13 the state with an estimated cost of one hundred thousand
14 dollars or more.

15 f. "State contractor" means a person organized under
16 statute or common law in this state on a for-profit or a not-
17 for-profit basis that has been awarded a state contract.

18 4. PAYMENT OF LIVING WAGE.

19 a. A state contract awarded to a state contractor shall
20 require that the state contractor pay each employee who
21 performs work pursuant to the contract an hourly wage that is
22 at least a living wage as defined in this section, for the
23 duration of the contract.

24 b. If a state contract is subject to prevailing wage
25 requirements under the terms of the contract, the state shall
26 pay the living wage, or the prevailing wage, whichever is
27 greater.

28 5. CALCULATION OF LIVING WAGE.

29 a. The living wage shall be ten dollars per hour if basic
30 health insurance benefits are not provided to the employee by
31 the state contractor or eight dollars and fifty cents per hour
32 if basic health insurance benefits are provided to the
33 employee by the state contractor.

34 b. On July 1 of each year following the effective date of
35 this Act, the commissioner shall adjust the living wage in

1 direct proportion to any increase or decrease in the consumer
2 price index for the midwest region as reported by the United
3 States department of labor, except that the living wage shall
4 at no time be less than ten dollars per hour without the
5 provision of basic health insurance benefits or eight dollars
6 and fifty cents per hour with the provision of basic health
7 insurance benefits.

8 6. WAIVERS.

9 a. A state contractor who is a not-for-profit entity may
10 apply to the commissioner for a waiver of the requirement that
11 all of the state contractor's employees who work on a state
12 contract be paid a living wage, based on economic hardship.

13 b. The commissioner may grant a waiver of the living wage
14 requirement only after doing all of the following:

15 (1) Conducting a review of the state contractor's
16 financial situation, including the compensation of the state
17 contractor's management personnel.

18 (2) Making a determination that requiring the state
19 contractor to pay its employees the living wage under this
20 section would cause an undue hardship to the state contractor.

21 c. A state contractor that is granted a waiver under this
22 subsection shall apply for a renewal of that waiver annually
23 and the renewal of the waiver shall be based on the same
24 criteria as the grant of the waiver.

25 7. APPLICABILITY.

26 a. This section does not apply to a trainee who is
27 enrolled for less than six months in a job readiness or job
28 training program run by a not-for-profit entity that is a
29 state contractor.

30 b. This section does not apply to an intern who is under
31 twenty-one years of age and is employed by a not-for-profit
32 entity that is a state contractor before or after school, or
33 during the summer for a period of not longer than three
34 months.

35 c. This section does not apply to a state contract when

1 the provisions of this section conflict with or are
2 inconsistent with a federal program requirement.

3 8. ENFORCEMENT.

4 a. A state contractor shall not discharge, demote, harass,
5 or otherwise retaliate against an employee because that
6 employee seeks to enforce this section, or testifies, assists,
7 or participates in an investigation, hearing, or other action
8 to enforce this section.

9 b. A state contractor shall not split or subdivide a state
10 contract, pay an employee through a third party, treat an
11 employee as a subcontractor or an independent contractor, or
12 otherwise attempt to evade the requirements of this section.

13 c. The commissioner shall enforce this section, and shall
14 adopt rules pursuant to chapter 17A, in order to implement
15 this section and administer compliance with this section
16 including but not limited to procedures to receive,
17 investigate, and resolve complaints, and to bring actions in
18 the appropriate district court to recover appropriate relief
19 for aggrieved employees.

20 d. An employee who prevails under this section may be
21 entitled to all of the following:

22 (1) An award of monetary relief, including back pay in an
23 amount equal to the difference between the employee's actual
24 earnings and what the employee would have earned but for the
25 state contractor's violation of this section.

26 (2) An injunction prohibiting the state contractor from
27 continuing to underpay employees in violation of this section
28 and ordering the state contractor to take such additional
29 affirmative actions as are necessary to ensure future
30 compliance with this section.

31 (3) Reasonable attorney fees, reasonable expert witness
32 fees, and other costs of the action.

33 Sec. 2. EFFECTIVE DATE. This Act takes effect July 1,
34 2003, and is applicable to state contracts executed or renewed
35 on or after October 1, 2003.

EXPLANATION

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2 This bill provides that employees of persons who are
3 awarded certain contracts for services by the state are
4 entitled to a living wage. The bill applies to a contract for
5 services awarded by the state with an estimated cost of
6 \$100,000 or more or to a subcontract for services with an
7 estimated cost of \$25,000 or more that is awarded by a state
8 contractor that has a contract with an estimated cost of
9 \$100,000 or more. A state contractor can be a for-profit or
10 not-for-profit entity that is awarded a state contract. A
11 "person" for the purposes of the bill means a person as
12 defined in Code section 4.1, subsection 20, and includes an
13 individual, corporation, limited liability company, government
14 or governmental subdivision or agency, business trust, estate,
15 trust, partnership, or association or any legal entity.

16 The bill provides that a state contract shall require that
17 the state contractor pay each employee who performs work
18 pursuant to the contract an hourly wage that is at least a
19 living wage as defined in the bill, for the duration of the
20 contract.

21 The bill provides that the living wage is calculated to be
22 \$10 per hour if there are no basic health insurance benefits
23 provided or \$8.50 per hour with basic health insurance
24 benefits provided. "Basic health insurance benefits" is
25 defined by the bill to mean an insurance plan that covers an
26 employee or an employee's family, and has certain levels of
27 benefits concerning the cost of certain health services and
28 the amount of the annual deductible.

29 The bill provides that the labor commissioner is charged
30 with investigation of complaints and enforcement of the bill.
31 The commissioner may also allow a waiver of the requirements
32 of the bill, upon application by a not-for-profit entity that
33 shows that compliance with the bill will be an economic
34 hardship to the not-for-profit entity. The bill also does not
35 apply to interns under 21 years of age employed by a not-for-

1 profit entity before or after school or in the summer or to a
2 trainee who is enrolled for less than six months in a job
3 readiness or job training program run by a not-for-profit
4 entity that is a state contractor.

5 The bill provides that a state contractor shall not
6 discharge, demote, harass, or otherwise retaliate against an
7 employee because that employee seeks to enforce the bill or to
8 assist someone else who seeks to enforce the bill.

9 The bill provides that a state contractor shall not attempt
10 to evade the requirements of the bill by splitting or
11 subdividing a state contract or paying an employee through a
12 third party or as a subcontractor or independent contractor.

13 The bill provides that the labor commissioner shall enforce
14 the bill and adopt rules pursuant to Code chapter 17A that
15 include procedures for receiving, investigating, and resolving
16 complaints, and for seeking judicial enforcement of the bill.

17 The bill provides that an employee who prevails in a
18 complaint under the bill may be entitled to monetary relief,
19 including back pay, an injunction against the employer, and
20 reasonable attorney fees and costs.

21 The bill is effective July 1, 2003, and is applicable to
22 state contracts executed or renewed on or after October 1,
23 2003.

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