

# HOUSE BILL No. 5927

June 11, 1998, Introduced by Reps. Ciaramitaro, Rison, Emerson, LaForge, Price and Martinez and referred to the Committee on Labor and Occupational Safety.

A bill to establish a living wage requirement for business entities that receive state funds; to impose certain duties on certain departments and state officers; and to prescribe remedies and penalties.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "living wage act".

3       Sec. 2. As used in this act:

4       (a) "Business entity" means any of the following that is not  
5 a party to a collective bargaining agreement described in section  
6 7:

7       (i) A corporation.

8       (ii) A partnership, including a limited partnership.

9       (iii) A limited liability company.

1 (iv) A sole proprietorship.

2 (b) "Contract" or "subcontract" means any agreement, verbal  
3 or written, express or implied, that authorizes the payment of  
4 state funds to a business entity in exchange for a good or  
5 service. Contract or subcontract does not include an agreement  
6 to provide labor on a state project as that term is defined in  
7 section 1 of 1965 PA 166, MCL 408.551.

8 (c) "Employee" means an individual employed by or under the  
9 direction and control of a business entity, and includes an indi-  
10 vidual under a personal service contract with a business entity.

11 (d) "MIChild program" means the program established within  
12 the state's department of community health budget under 1998 PA  
13 54 in accordance with the state children's health insurance pro-  
14 gram under title XXI of the social security act, chapter 531, 49  
15 Stat. 620, 42 U.S.C. 1397aa to 1397jj.

16 (e) "Poverty level wage" means remuneration for employment  
17 that equals an hourly wage, excluding benefits, that is equal to  
18 1/2,080 of the poverty level for a family of 4, as that poverty  
19 level is determined in accordance with criteria established by  
20 the director of the United States office of management and  
21 budget.

22 Sec. 3. (1) After the effective date of this act, the state  
23 shall not enter a contract or subcontract with a business entity  
24 unless all of the following requirements are met:

25 (a) The business entity pays each of its employees a wage  
26 that equals or exceeds the poverty level wage.

1 (b) The business entity provides or pays the premiums for  
2 employee health care benefits that are equal to or greater than  
3 the benefits available under the MICHild program.

4 (c) The contract or subcontract is expressly conditioned on  
5 the business entity's compliance with this act.

6 (2) Except as provided in section 7, the state shall ensure  
7 that each contract or subcontract does both of the following:

8 (a) Specifies that the state may terminate the contract upon  
9 determining that the business entity is not in compliance with  
10 this section.

11 (b) Specifies that the state's termination of the contract  
12 under subdivision (a) does not limit any other remedy available  
13 under law.

14 (3) This section applies to modification of a contract or  
15 subcontract that occurs after the effective date of this act,  
16 regardless of whether the contract or subcontract being modified  
17 was executed before the effective date of this act.

18 Sec. 4. (1) An employee who alleges that a business entity  
19 is not in compliance with section 3 may bring a civil action in  
20 the circuit court to compel compliance, and may additionally  
21 recover any of the following:

22 (a) Back pay for each day after the effective date of this  
23 act that the business entity paid the employee a wage that was  
24 below the poverty level wage.

25 (b) The value of health care benefits or premiums required  
26 to be provided for the employee under section 3(1)(b) that the  
27 business entity failed to provide.

1       (2) The circuit court shall award to an employee who  
2 prevails in a civil action described in this section reasonable  
3 attorney fees and costs incurred by the employee in that action.

4       Sec. 5. A business entity subject to this act shall not  
5 retaliate against an employee who claims a violation of section  
6 3.

7       Sec. 6. The department of management and budget shall moni-  
8 tor business entity compliance with this act, investigate claims  
9 of noncompliance with this act, and additionally promulgate rules  
10 under the administrative procedures act of 1969, 1969 PA 306, MCL  
11 24.201 to 24.328, to implement and enforce this act. However,  
12 the rule promulgation authority specified in this section does  
13 not apply if a final judicial determination by a court of compe-  
14 tent jurisdiction provides that the rule-making authority con-  
15 ferred by this section is unconstitutional.

16       Sec. 7. This act does not supersede or preempt 1965 PA 166,  
17 MCL 408.551 to 408.558, and does not limit an individual's abil-  
18 ity to obtain legal or equitable relief for a violation of any  
19 other law relating to employment compensation.