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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2373

- 02/25/2014 Authored by Moran, Kahn, Mariani, Allen, Masin and others
The bill was read for the first time and referred to the Committee on Government Operations
- 03/06/2014 Adoption of Report: Re-referred to the Committee on Labor, Workplace and Regulated Industries
- 03/17/2014 Adoption of Report: Amended and re-referred to the Committee on Civil Law
- 03/19/2014 Adoption of Report: Amended and re-referred to the Committee on Public Safety Finance and Policy
- 03/31/2014 Adoption of Report: Amended and re-referred to the Committee on Ways and Means

1.1 A bill for an act
1.2 relating to state government; requiring certificates of equal pay as a condition
1.3 for certain public contracts; classifying data; requiring a report; appropriating
1.4 money; amending Minnesota Statutes 2012, section 13.552, by adding a
1.5 subdivision; proposing coding for new law in Minnesota Statutes, chapter 363A.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2012, section 13.552, is amended by adding a
1.8 subdivision to read:

1.9 Subd. 7. **Equal pay certificate of compliance.** Access to data relating to equal pay
1.10 certificates of compliance is governed by section 363A.44.

1.11 Sec. 2. **[363A.44] EQUAL PAY CERTIFICATE OF COMPLIANCE.**

1.12 Subdivision 1. **Equal pay certificate of compliance.** No department or agency of
1.13 the state may execute a contract in excess of \$500,000 with a business that has 50 or more
1.14 full-time employees in this state or a state where the business has its primary place of
1.15 business on a single working day during the previous 12 months unless the business has
1.16 an equal pay certificate of compliance. This section does not apply to a contract with the
1.17 Department of Human Services for the primary purpose of providing health care services.
1.18 The commissioner shall issue an equal pay certificate of compliance to a business that
1.19 submits to the commissioner a statement that:

1.20 (1) its compensation policies or practices are based on the principle of equal pay
1.21 for equal work, and are in compliance with Title VII of the Civil Rights Act of 1964, the
1.22 Equal Pay Act of 1963, the Minnesota Human Rights Act, and the Minnesota Equal
1.23 Pay for Equal Work Law;

2.1 (2) its wage schedules and other compensation formulas are not related to, or based
2.2 on, the sex of its employees;

2.3 (3) it does not restrict employees of one sex to certain job classifications and makes
2.4 retention and promotion of qualified employees without regard to sex;

2.5 (4) its contributions to insurance, pensions, and other benefit plans are not related
2.6 to, or based on, the sex of its employees;

2.7 (5) for the job classes expected to perform work under the contract, within each of
2.8 the major job categories in the EEO-1 employee information report, the compensation for
2.9 its female employees is not consistently below the compensation for its male employees,
2.10 taking into account factors such as requirements of specific job classes within each major
2.11 category, length of service, experience, and market conditions.

2.12 Subd. 2. **Application; issuance; duration.** A business applying for a certificate
2.13 of compliance must pay a \$150 fee to the commissioner. The commissioner must issue
2.14 a business an equal pay certificate of compliance, or a statement of why the application
2.15 was rejected, within 15 days of receipt of the application and the filing fee. An equal pay
2.16 certificate of compliance is valid for four years. Proceeds of the filing fee are appropriated
2.17 to the commissioner for purposes of this section.

2.18 Subd. 3. **Conditions; audit.** (a) As a condition of receiving an equal pay certificate
2.19 of compliance, and as a condition of the contract that is subject to this section, a business
2.20 must agree that:

2.21 (1) the commissioner may audit the business' compliance with this section; and

2.22 (2) the commissioner or the agency entering into the contract may void a contract if
2.23 the commissioner determines that the business is not in compliance with items specified in
2.24 subdivision 1, clauses (1) to (5).

2.25 (b) As a condition of receiving an equal pay certificate of compliance, and as a
2.26 condition of the contract that is subject to this section, a business must agree that as part of
2.27 an audit, the business will provide the commissioner the following information with respect
2.28 to employees in each of the major job categories in the EEO-1 employee information report:

2.29 (1) number of male employees;

2.30 (2) number of female employees;

2.31 (3) salaries paid to male employees and to female employees within each major
2.32 job category;

2.33 (4) information on performance payments, benefits, or other elements of
2.34 compensation, if requested by the commissioner as part of a determination as to whether
2.35 these elements of compensation are different for male and female employees;

2.36 (5) average length of service for male and female employees in each job category; and

3.1 (6) other information identified by the business or by the commissioner, as needed,
3.2 to determine compliance with items specified in subdivision 1, clauses (1) to (5).

3.3 Subd. 4. **Compliance plan; revocation of certificate.** If the commissioner
3.4 determines that a business that has an equal pay certificate of compliance is not in
3.5 compliance with subdivision 1, clauses (1) to (5), the commissioner may require the
3.6 business to implement an equal pay certificate of compliance plan as a condition of
3.7 retaining its certificate of compliance. The commissioner may suspend or revoke a
3.8 certificate if the commissioner determines that the business is not in compliance with
3.9 items specified in subdivision 1, clauses (1) to (5).

3.10 Subd. 5. **Voiding of contract.** Prior to taking action to void a contract, the
3.11 commissioner must first demonstrate that no undue hardship would occur to the state and
3.12 that obtaining wages and benefits due to employees of the business is an insufficient
3.13 remedy. Multiple violations of the law or evidence of deliberate intent to discriminate by
3.14 the certificate holder may be sufficient justification for the commissioner to void a contract.

3.15 Subd. 6. **Administrative review.** A business may obtain a hearing when the
3.16 commissioner issues an order directing a contract voided or an equal pay certificate of
3.17 compliance revoked by filing a written request for a hearing with the department within
3.18 20 days after service of the notice of sanction. The hearing shall be a contested case
3.19 proceeding pursuant to sections 14.57 to 14.69.

3.20 Subd. 7. **Technical assistance.** The commissioner must provide technical assistance
3.21 to any business that requests assistance.

3.22 Subd. 8. **Access to data.** Data submitted to the commissioner by a contractor or
3.23 potential contractor for purposes of obtaining a certificate of compliance under this section,
3.24 or in response to an audit under this section, are private data on individuals or nonpublic
3.25 data with respect to persons other than Department of Human Rights employees. The
3.26 commissioner's decision to grant, not grant, revoke, or suspend a certificate of compliance
3.27 is public data.

3.28 **EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to a
3.29 contract for which a state department or agency issues a solicitation on or after that date.

3.30 Sec. 3. **REPORT.**

3.31 The commissioner of human rights shall report to the governor and the chairs and
3.32 ranking minority members of the committees in the senate and the house of representatives
3.33 with primary jurisdiction over the department by January 31, 2016. The report shall
3.34 indicate the number of equal pay certificates issued, the number of audits conducted, and a

- 4.1 summary of its auditing efforts. The commissioner shall consult with the Office on the
- 4.2 Economic Status of Women in preparing the report.