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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

1.1 A bill for an act
1.2 relating to state government; requiring certificates of pay equity compliance
1.3 as a condition for certain state contracts; classifying data; requiring a report;
1.4 appropriating money; amending Minnesota Statutes 2012, section 13.552, by
1.5 adding a subdivision; proposing coding for new law in Minnesota Statutes,
1.6 chapters 16C; 363A.

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

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

1.10 Subd. 7. **Certificates of compliance.** Access to data relating to certificates of pay
1.11 equity compliance is governed by section 363A.44.

1.12 Sec. 2. **[16C.37] CERTIFICATE OF PAY EQUITY COMPLIANCE.**

1.13 Subdivision 1. **Definitions.** The following terms have the meanings given them.

1.14 (a) "Balanced class" means any class in which fewer than 80 percent of the members
1.15 are male and fewer than 70 percent of the members are female.

1.16 (b) "Class" means one or more positions that have similar duties, responsibilities,
1.17 and general qualifications necessary to perform the duties, with comparable selection
1.18 procedures used to recruit employees, and use of the same compensation schedule.

1.19 (c) "Comparable work value" means the value of work measured by the skill, effort,
1.20 responsibility, and working conditions normally required in the performance of the work.

1.21 (d) "Equitable compensation relationship" means that the compensation for
1.22 female-dominated classes is not consistently below the compensation for male-dominated
1.23 classes of comparable work value within the business.

2.1 (e) "Female-dominated class" means any class in which 70 percent or more of the
2.2 members are female.

2.3 (f) "Male-dominated class" means any class in which 80 percent or more of the
2.4 members are male.

2.5 (g) "Position" means a group of current duties and responsibilities assigned or
2.6 delegated by a supervisor to an individual.

2.7 Subd. 2. **Establishment.** For a contract for goods or services in excess of \$500,000,
2.8 a state department or agency may not accept a bid or proposal from a business having more
2.9 than 40 full-time employees within the state on a single working day during the previous
2.10 12 months unless the commissioner of human rights, under the process established in
2.11 section 363A.44, has approved the business's plan to establish equitable compensation
2.12 relationships for its employees within the state and has issued the business a certificate of
2.13 pay equity compliance. A business required to have a certificate of compliance to submit
2.14 a bid or proposal for a state contract must use a job evaluation system to determine the
2.15 comparable value of the work performed by each class of its employees within the state.

2.16 Subd. 3. **Exemption.** This section does not apply to a business if the commissioner
2.17 of administration determines that any of the following conditions exists:

2.18 (1) a business is the sole supplier of required goods or services that are the subject
2.19 of the contract;

2.20 (2) the goods or services that are the subject of the contract are needed to respond to
2.21 a threat to public health, welfare, or safety that threatens the functioning of government,
2.22 the protection of property, or the health or safety of people, and there is no bid or response
2.23 from a business that has a certificate of pay equity compliance; or

2.24 (3) a business' ineligibility would cause the state undue hardship.

2.25 Sec. 3. **[363A.44] CERTIFICATE OF PAY EQUITY COMPLIANCE.**

2.26 Subdivision 1. **Compliance; good faith effort.** (a) The commissioner must approve
2.27 a plan and issue a certificate of pay equity compliance under this section to a business
2.28 seeking the certification required by section 16C.37 if the business demonstrates that it is
2.29 in compliance with equitable compensation relationship standards or is making a good
2.30 faith effort to achieve compliance with those standards. As used in this section, certificate
2.31 of compliance means a certificate of pay equity compliance. A certificate of compliance is
2.32 valid for four years. The commissioner must apply the following rules in administering this
2.33 section: Minnesota Rules, parts 3920.0100, subparts 2, 3, 6, 8, 10; 3920.0400; 3920.0500;
2.34 3920.0600; 3920.0700. For purposes of applying these rules to administer this section, the
2.35 term "jurisdiction" in those rules refers to a business seeking a certificate of compliance.

3.1 (b) A business seeking a certificate of pay equity compliance must submit a
3.2 pay equity report covering its employees in the state in the manner provided by the
3.3 commissioner. The report must include a statement verifying that the job evaluation system
3.4 used by the business is based on the skill, effort, responsibility, and working conditions
3.5 normally required in the performance of the work and that the same job evaluation
3.6 system is used for determining comparable work value for all classes of employees of the
3.7 business. The report must also list the following information for each job class:

3.8 (1) class title;

3.9 (2) number of male employees;

3.10 (3) number of female employees;

3.11 (4) whether the class is male-dominated, female-dominated, or balanced;

3.12 (5) comparable work value as determined by the job evaluation system;

3.13 (6) minimum and maximum monthly salary;

3.14 (7) performance payments, if any employee in the class was receiving such payments
3.15 resulting in pay above the salary range maximum; and

3.16 (8) whether or not eligibility for benefits, or the employer contribution for benefits,
3.17 is different for any male-dominated and female-dominated classes.

3.18 (c) A business that is not in compliance with equitable compensation relationship
3.19 standards is making a good faith effort to achieve compliance if the commissioner has
3.20 approved:

3.21 (1) a plan for achieving compliance, including the business's proposed actions and
3.22 response to the commissioner's recommendations; and

3.23 (2) a proposed date for achieving compliance and for submitting a revised report
3.24 for the commissioner's review.

3.25 Subd. 2. **Filing fee; account; appropriation.** The commissioner shall collect a \$75
3.26 fee for each certificate of compliance issued by the commissioner under this section. The
3.27 proceeds of the fee must be deposited in the state treasury and credited to a pay equity fee
3.28 special revenue account. Money in the account is appropriated to the commissioner to
3.29 fund the cost of administering this section.

3.30 Subd. 3. **Revocation of certificate.** A certificate of compliance may be suspended
3.31 or revoked by the commissioner if a holder of a certificate is not effectively implementing
3.32 or making a good faith effort to implement its approved plan to establish equitable
3.33 compensation relationships. If a contractor does not effectively implement its approved
3.34 plan, or fails to make a good faith effort to do so, the commissioner may refuse to approve
3.35 subsequent plans submitted by that business.

4.1 Subd. 4. **Revocation of contract.** A contract awarded by a department or agency
4.2 of the state may be terminated or abridged by the contracting department or agency if a
4.3 certificate of compliance is suspended or revoked. If a contract is awarded to a business
4.4 that does not have a contract certificate of compliance as required, the commissioner of
4.5 administration may void the contract on behalf of the state.

4.6 Subd. 5. **Technical assistance.** If the commissioner has suspended a contractor's
4.7 certificate of compliance, the commissioner shall provide technical assistance that may
4.8 enable the contractor to be recertified within 90 days after the contractor's certificate of
4.9 compliance has been suspended.

4.10 Subd. 6. **Access to data.** Data submitted to the commissioner by a contractor
4.11 or potential contractor for purposes of obtaining a certificate of compliance under this
4.12 section are private data on individuals or nonpublic data with respect to persons other than
4.13 Department of Human Rights employees. The commissioner's decision to grant, not grant,
4.14 revoke, or suspend a certificate of compliance is public data.

4.15 **EFFECTIVE DATE.** This section is effective July 1, 2014, and applies to contracts
4.16 for which a state department or agency issues solicitations on or after that date.

4.17 **Sec. 4. CERTIFICATE OF COMPLIANCE; TEMPORARY PROVISION.**

4.18 Until July 1, 2015, a business that is not in compliance with equitable compensation
4.19 relationship standards is making a good faith effort to achieve compliance if the
4.20 commissioner of human rights has approved:

4.21 (1) a statement of the business's intention to prepare a pay equity report and an
4.22 estimated date no later than July 1, 2016, when the report and plan will be submitted; and

4.23 (2) information on the business's current status, including a statement on the
4.24 existence of a job evaluation system, the total number of male and female employees of
4.25 the business within this state, and the business's interest in receiving training on how to
4.26 establish equitable compensation relationships.

4.27 **EFFECTIVE DATE.** This section applies to contracts for which a state department
4.28 or agency issues solicitations on or after July 1, 2014.

4.29 **Sec. 5. REPORT.**

4.30 The commissioner of human rights, in cooperation with the commissioner of
4.31 administration, shall report to the legislature by January 31, 2015, on implementation of
4.32 sections 1 to 4. The report must include findings and recommendations on any changes
4.33 needed to ensure that state contractors achieve equitable compensation relationships.