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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

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 sections 16C.37 and 363A.44.

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

1.13 (a) For a contract for goods or services in excess of \$500,000, a state department or
1.14 agency may not accept a bid or proposal from a business having more than 40 full-time
1.15 employees within the state on a single working day during the previous 12 months unless
1.16 the commissioner of human rights, under the process established in section 363A.44,
1.17 has approved the business's plan to establish equitable compensation relationships for
1.18 its employees within the state and has issued the business a certificate of pay equity
1.19 compliance. As used in this section, "equitable compensation relationship" has the
1.20 meaning given in section 471.991.

1.21 (b) This section does not apply to construction projects governed by sections 177.43
1.22 and 177.44.

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

2.1 Subdivision 1. **Compliance; good faith effort.** (a) The commissioner must approve
2.2 a plan and issue a certificate of pay equity compliance under this section to a business
2.3 seeking the certification required by section 16C.37 if the business demonstrates that it is
2.4 in compliance with equitable compensation relationship standards or is making a good
2.5 faith effort to achieve compliance with those standards. As used in this section, certificate
2.6 of compliance means a certificate of pay equity compliance. A certificate of compliance is
2.7 valid for two years. The standards for determining equitable compensation relationships
2.8 for a business under this section are the same as the standards in sections 471.991 to
2.9 471.997 and rules adopted under those sections.

2.10 (b) A business that is not in compliance with equitable compensation relationship
2.11 standards is making a good faith effort to achieve compliance if the commissioner has
2.12 approved:

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

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

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

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

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

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

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

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

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

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

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

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

3.18 EFFECTIVE DATE. This section applies to contracts for which a state department
3.19 or agency issues solicitations on or after January 1, 2015.

3.20 **Sec. 5. REPORT.**

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