

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 1806

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DATE	D-PG	OFFICIAL STATUS
02/25/2014	5830	Introduction and first reading Referred to State and Local Government
03/13/2014	6184a	Comm report: To pass as amended and re-refer to Judiciary
03/17/2014		Comm report: To pass as amended and re-refer to Jobs, Agriculture and Rural Development

A bill for an act

1.1 relating to state government; requiring certificates of pay equity compliance
 1.2 as a condition for certain state contracts; classifying data; requiring a report;
 1.3 appropriating money; amending Minnesota Statutes 2012, sections 13.552,
 1.4 subdivision 1, by adding a subdivision; 363A.35, by adding a subdivision;
 1.5 proposing coding for new law in Minnesota Statutes, chapters 16C; 363A.
 1.6

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

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

1.9 Subdivision 1. **Scope.** The sections referred to in subdivisions 2 to ~~6~~ 7 are codified
 1.10 outside this chapter. Those sections classify human rights data as other than public, place
 1.11 restrictions on access to government data, or involve data sharing.

1.12 Sec. 2. Minnesota Statutes 2012, section 13.552, is amended by adding a subdivision
 1.13 to read:

1.14 Subd. 7. **Certificates of compliance.** Access to data relating to certificates of pay
 1.15 equity compliance issued by the Department of Human Rights is governed by section
 1.16 363A.44.

1.17 **EFFECTIVE DATE.** This section is effective August 1, 2014.

1.18 Sec. 3. **[16C.37] CERTIFICATE OF PAY EQUITY COMPLIANCE REQUIRED.**

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

1.20 (a) "Balanced class" means any class in which no more than 80 percent of the
 1.21 members are male and no more than 70 percent of the members are female.

1.22 (b) "Business" means a business having more than 40 full-time employees within the
 1.23 state on a single working day during the previous 12 months.

2.1 (c) "Certificate of pay equity compliance" means a certificate of pay equity
2.2 compliance issued by the commissioner of human rights under section 363A.44.

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

2.6 (e) "Comparable work value" means the value of work measured by the skill, effort,
2.7 responsibility, and working conditions normally required in the performance of the work.

2.8 (f) "Equitable compensation relationship" means that the compensation for
2.9 female-dominated classes is not consistently below the compensation for male-dominated
2.10 classes of comparable work value within the business, as determined under subdivision 4.

2.11 (g) "Female-dominated class" means any class in which 70 percent or more of
2.12 the members are female.

2.13 (h) "Male-dominated class" means any class in which 80 percent or more of the
2.14 members are male.

2.15 (i) "Position" means a group of current duties and responsibilities assigned or
2.16 delegated by a supervisor to an individual.

2.17 Subd. 2. **Establishment.** Every business that contracts with the state for goods
2.18 and services in excess of \$500,000 shall establish equitable compensation relationships
2.19 between female-dominated, male-dominated, and balanced classes of employees within
2.20 the state to eliminate sex-based wage disparities. A primary consideration in negotiating,
2.21 establishing, recommending, and approving compensation is comparable work value in
2.22 relationship to other employee positions within the business.

2.23 Subd. 3. **Required certificate of pay equity.** For a contract for goods or services in
2.24 excess of \$500,000, a state department or agency may not accept a bid or proposal from a
2.25 business unless the business has a certificate of pay equity compliance, the commissioner of
2.26 human rights is in receipt of the business's gender pay equity certificate application, or the
2.27 business has certified that it is exempt. No department or agency shall execute any contract
2.28 or agreement for goods or services in excess of \$500,000 with a business unless the business
2.29 has a certificate of pay equity compliance or the business has certified that it is exempt.

2.30 Subd. 4. **Job evaluation system.** Every business that contracts with the state for
2.31 goods and services in excess of \$500,000 shall use a job evaluation system to determine
2.32 the comparable work value of the work performed by each class of its employees within
2.33 the state. The system must be maintained and updated to account for new employee
2.34 classes and any changes in factors affecting the comparable work value of existing classes.

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

3.1 Sec. 4. Minnesota Statutes 2012, section 363A.35, is amended by adding a subdivision
3.2 to read:

3.3 Subd. 5. Access to certificate data. (a) Except as otherwise provided in this
3.4 subdivision, data relating to an application for a certificate of pay equity compliance
3.5 with the Department of Human Rights under section 363A.44 are confidential data on
3.6 individuals or protected nonpublic data. A contractor may consent to the release to its
3.7 attorney or other legal representative.

3.8 (b) The name and address of the applicant or certificate holder and the
3.9 commissioner's decision to grant, deny, revoke, or suspend a certificate is public data.

3.10 EFFECTIVE DATE. This section is effective August 1, 2014.

3.11 Sec. 5. [363A.44] CERTIFICATE OF PAY EQUITY COMPLIANCE.

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

3.13 (a) "Balanced class" means any class in which no more than 80 percent of the
3.14 members are male and no more than 70 percent of the members are female.

3.15 (b) "Business" means a business having more than 40 full-time employees within the
3.16 state on a single working day during the previous 12 months.

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

3.20 (d) "Comparable work value" means the value of work measured by the skill, effort,
3.21 responsibility, and working conditions normally required in the performance of the work.

3.22 (e) "Equitable compensation relationship" means that the compensation for
3.23 female-dominated classes is not consistently below the compensation for male-dominated
3.24 classes of comparable work value within the business, as determined under section
3.25 16C.37, subdivision 4.

3.26 (f) "Female-dominated class" means any class in which 70 percent or more of the
3.27 members are female.

3.28 (g) "Male-dominated class" means any class in which 80 percent or more of the
3.29 members are male.

3.30 (h) "Position" means a group of current duties and responsibilities assigned or
3.31 delegated by a supervisor to an individual.

3.32 Subd. 2. Compliance; good faith effort. (a) The commissioner must issue a
3.33 certificate of pay equity compliance to a business if the business demonstrates that it is in
3.34 compliance with equitable compensation relationship standards or is making a good faith
3.35 effort to achieve compliance with those standards. As used in this section, "certificate of

4.1 compliance" means a certificate of pay equity compliance. A certificate of compliance is
 4.2 valid for four years. The standards for determining equitable compensation relationships
 4.3 for a business under this section are:

4.4 (1) compensation for positions within the business's work force must bear reasonable
 4.5 relationship among job classes and among various levels within the same occupational
 4.6 group;

4.7 (2) compensation for positions must bear reasonable relationship to similar positions
 4.8 outside of the business's employment; and

4.9 (3) compensation for classified positions, unclassified positions, and management
 4.10 must bear reasonable relationship to one another.

4.11 (b) Until August 1, 2015, a business that is not in compliance with equitable
 4.12 compensation relationship standards is making a good faith effort to achieve compliance if
 4.13 the commissioner has approved:

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

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

4.20 (c) On or after August 1, 2015, a business that is not in compliance with equitable
 4.21 compensation relationship standards is making a good faith effort to achieve compliance if
 4.22 the commissioner has approved:

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

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

4.27 Subd. 3. **Reasonable relationship defined.** For purposes of subdivision 2,
 4.28 compensation for positions bear "reasonable relationship" to one another if:

4.29 (1) the compensation for positions which require comparable skill, effort,
 4.30 responsibility, working conditions, and other relevant work-related criteria is comparable;
 4.31 and

4.32 (2) the compensation for positions which require differing skill, effort, responsibility,
 4.33 working conditions, and other relevant work-related criteria is proportional to the skill,
 4.34 effort, responsibility, working conditions, and other relevant work-related criteria required.

4.35 Subd. 4. **Filing fee; account; appropriation.** The commissioner shall collect a
 4.36 \$150 fee for each certificate of compliance issued by the commissioner under this section.

5.1 The proceeds of the fee must be deposited in the state treasury and credited to a pay equity
5.2 fee special revenue account. Money in the account is appropriated to the commissioner to
5.3 fund the cost of administering this section.

5.4 Subd. 5. **Revocation of certificate.** A certificate of compliance may be suspended
5.5 or revoked by the commissioner if a holder of a certificate is not effectively implementing
5.6 or making a good faith effort to implement its approved plan to establish equitable
5.7 compensation relationships. If a business does not effectively implement its approved
5.8 plan, or fails to make a good faith effort to do so, the commissioner may refuse to approve
5.9 subsequent plans submitted by that business.

5.10 Subd. 6. **Revocation of contract.** A contract awarded by a department or agency of
5.11 the state to a business may be terminated or abridged by the contracting department or
5.12 agency if that business's certificate of compliance is suspended or revoked. If a contract is
5.13 awarded to a business that does not have a contract certificate of compliance as required,
5.14 the commissioner of administration may void the contract.

5.15 Subd. 7. **Technical assistance.** If the commissioner has suspended a business's
5.16 certificate of compliance, the commissioner shall provide technical assistance to enable
5.17 the business to be recertified within 90 days after the business's certificate of compliance
5.18 has been suspended.

5.19 Subd. 8. **Access to data.** Data submitted to the commissioner by a business for
5.20 purposes of obtaining a certificate of compliance under this section are private data on
5.21 individuals or nonpublic data with respect to persons other than Department of Human
5.22 Rights employees. The commissioner's decision to grant, not grant, revoke, or suspend
5.23 a certificate of compliance is public data.

5.24 Subd. 9. **Rules.** The commissioner shall apply rules promulgated under sections
5.25 471.991 to 471.997 to implement this section.

5.26 **EFFECTIVE DATE.** This section is effective August 1, 2014.

5.27 Sec. 6. **REPORT.**

5.28 The commissioner of human rights, in cooperation with the commissioner of
5.29 administration, shall report to the chairs and ranking minority members of the committees
5.30 in the senate and house of representatives with primary jurisdiction over the administration
5.31 of state contracts for goods and services, by July 31, 2015, on implementation of sections
5.32 1 to 3. The report must include findings and recommendations on any changes needed to
5.33 ensure that state contractors achieve equitable compensation relationships.