

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	6271a	Comm report: To pass as amended and re-refer to Jobs, Agriculture and Rural Development
03/27/2014		Comm report: To pass as amended and re-refer to Finance

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 Subd. 5. **Pay equity report.** (a) Every business that contracts with the state for
2.36 goods and services in excess of \$500,000 must submit a pay equity report on a form

3.1 provided by the department. The report must include a statement verifying that the job
 3.2 evaluation system used by the business meets the following criteria:

3.3 (1) the job evaluation system is based on the skill, effort, responsibility, and working
 3.4 conditions normally required in the performance of the work; and

3.5 (2) the same job evaluation system is used for determining comparable work value
 3.6 for all classes of employees in the business.

3.7 (b) In addition, the business must submit 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) designation as to whether the class is a male-dominated class, female-dominated
 3.12 class, or balanced class, as defined in subdivision 1;

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

3.14 (6) the minimum and maximum monthly salary;

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

3.17 (8) whether or not eligibility for benefits or the employer contribution for benefits is
 3.18 different for any male-dominated and female-dominated classes of comparable work value.

3.19 Subd. 6. **Exemption.** This section does not apply to a business if the commissioner
 3.20 of administration determines that any of the following conditions exists:

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

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

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

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

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

3.32 Subd. 5. **Access to certificate data.** (a) Except as otherwise provided in this
 3.33 subdivision, data relating to an application for a certificate of pay equity compliance with
 3.34 the Department of Human Rights under section 363A.44 are private data on individuals
 3.35 or nonpublic data.

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

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

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

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

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

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

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

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

4.15 (e) "Equitable compensation relationship" means that the compensation for
4.16 female-dominated classes is not consistently below the compensation for male-dominated
4.17 classes of comparable work value within the business, as determined under section
4.18 16C.37, subdivision 4.

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

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

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

4.25 Subd. 2. **Compliance; good faith effort.** (a) The commissioner must issue a
4.26 certificate of pay equity compliance to a business if the business demonstrates that it is in
4.27 compliance with equitable compensation relationship standards or is making a good faith
4.28 effort to achieve compliance with those standards. As used in this section, "certificate of
4.29 compliance" means a certificate of pay equity compliance. A certificate of compliance is
4.30 valid for four years. The standards for determining equitable compensation relationships
4.31 for a business under this section are set forth in subdivision 3.

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

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

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

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

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

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

5.14 Subd. 3. **Equitable compensation relationships standard defined.** The standards
5.15 for determining equitable compensation relationships for a business under this section are:

5.16 (1) for a business with six or more male-dominated classes, a regression analysis
5.17 showing the relationship between comparable work value and compensation must show
5.18 that there is no consistent pattern of lower compensation for female-dominated classes
5.19 than for male-dominated classes within the business; and

5.20 (2) for a business with fewer than six male-dominated classes, an alternative analysis
5.21 must show the following:

5.22 (i) the compensation for positions that require comparable skill, effort, responsibility,
5.23 working conditions, and other relevant work-related criteria is comparable; and

5.24 (ii) the compensation for positions that require differing skill, effort, responsibility,
5.25 working conditions, and other relevant work-related criteria is proportional to the skill,
5.26 effort, responsibility, working conditions, and other relevant work-related criteria required.

5.27 Subd. 4. **Filing fee; account; appropriation.** The commissioner shall collect a
5.28 \$150 fee for each certificate of compliance issued by the commissioner under this section.
5.29 The proceeds of the fee must be deposited in the state treasury and credited to a pay equity
5.30 fee special revenue account. Money in the account is appropriated to the commissioner to
5.31 fund the cost of administering this section.

5.32 Subd. 5. **Revocation of certificate.** A certificate of compliance may be suspended
5.33 or revoked by the commissioner if a holder of a certificate is not effectively implementing
5.34 or making a good faith effort to implement its approved plan to establish equitable
5.35 compensation relationships. If a business does not effectively implement its approved

6.1 plan, or fails to make a good faith effort to do so, the commissioner may refuse to approve
6.2 subsequent plans submitted by that business.

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

6.8 Subd. 7. **Technical assistance.** If the commissioner has suspended a business's
6.9 certificate of compliance, the commissioner shall provide technical assistance to enable
6.10 the business to be recertified within 90 days after the business's certificate of compliance
6.11 has been suspended.

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

6.17 Subd. 9. **Rules.** The commissioner must apply the following rules in administering
6.18 this section: Minnesota Rules, parts 3920.0100, subparts 2, 3, 6, 8, and 10; 3920.0400;
6.19 3920.0500; 3920.0600; and 3920.0700. For purposes of applying these rules to administer
6.20 this section, the term "jurisdiction" in those rules refers to a business seeking a certificate
6.21 of pay equity compliance under this section.

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

6.23 Sec. 6. **REPORT.**

6.24 The commissioner of human rights, in cooperation with the commissioner of
6.25 administration, shall report to the chairs and ranking minority members of the committees
6.26 in the senate and house of representatives with primary jurisdiction over the administration
6.27 of state contracts for goods and services, by July 31, 2015, on implementation of sections
6.28 1 to 3. The report must include findings and recommendations on any changes needed to
6.29 ensure that state contractors achieve equitable compensation relationships.