

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	6946a	Comm report: To pass as amended and re-refer to Finance

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; requiring a report; proposing coding for new law
 1.4 in Minnesota Statutes, chapter 363A.

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

1.6 Section 1. **[363A.44] EQUAL PAY CERTIFICATE.**

1.7 Subdivision 1. **Scope.** No department, agency of the state, the Metropolitan Council,
 1.8 or an agency listed in section 473.143, subdivision 1, shall execute a contract or agreement
 1.9 in excess of \$500,000 with a business having more than 40 full-time employees on a
 1.10 single day during the prior 12 months unless the business has an equal pay certificate or it
 1.11 has certified in writing that it is exempt. For purposes of this section, a business does not
 1.12 include an entity with a contract with a department or agency of the state if the entity has a
 1.13 license, certification, registration, provider agreement, or provider enrollment contract
 1.14 which are prerequisite to providing goods and services to consumers under chapters 43A,
 1.15 62A, 62C, 62D, 62E, 256B, and 256L. A certificate is valid for four years.

1.16 Subd. 2. **Application.** (a) A business shall apply for an equal pay certificate
 1.17 by paying a \$150 filing fee and submitting an equal pay compliance statement to the
 1.18 commissioner. All filing fees are appropriated to the department. An equal pay compliance
 1.19 statement must be signed by a senior officer of the business stating:

1.20 (1) that the business is in compliance with Title VII of the Civil Rights Act of
 1.21 1964, Equal Pay Act of 1963, Minnesota Human Rights Act, and Minnesota Equal Pay
 1.22 for Equal Work law;

1.23 (2) that wage and benefit disparities are corrected when identified to ensure
 1.24 compliance with the laws cited in clause (1); and

2.1 (3) how often wages and benefits are evaluated to ensure compliance with the laws
2.2 cited in clause (1).

2.3 (b) The equal pay compliance statement shall also indicate whether the business
2.4 utilizes:

2.5 (1) a market pricing approach;

2.6 (2) state prevailing wage or union contract requirements; or

2.7 (3) an alternative approach to determine what level of wages and benefits to pay
2.8 its employees. If the business uses an alternative approach, the business must provide a
2.9 one paragraph description of its approach.

2.10 Subd. 3. **Issuance of certificate.** The commissioner must issue an equal pay
2.11 certificate or deficiency letter describing why the certificate cannot be issued to the
2.12 applicant within 15 days of receipt of the application.

2.13 Subd. 4. **Revocation of certificate.** An equal pay certificate may be suspended or
2.14 revoked by the commissioner when the certificate holder has multiple violations and fails
2.15 to make a good faith effort to ensure equal pay.

2.16 Subd. 5. **Revocation of contract.** (a) The commissioner may void a contract on
2.17 behalf of the state that was awarded to a business that did not have an equal pay certificate.
2.18 After suspending or revoking a certificate, the commissioner may abridge or void a
2.19 contract if the contractor is not implementing or is failing to make a good faith effort to
2.20 correct violations of the laws identified in subdivision 2, paragraph (a), clause (1).

2.21 (b) Prior to taking action to abridge or void a contract, the commissioner must first
2.22 demonstrate that no undue hardship would occur to the state and that obtaining wages and
2.23 benefits due to employees of the business is an insufficient remedy. Multiple violations of
2.24 the law or evidence of deliberate intent to discriminate by the certificate holder may be
2.25 sufficient justification for the commissioner to void a contract.

2.26 (c) The commissioner shall analyze the good faith efforts of a business on the basis of:

2.27 (1) information from the equal pay compliance statement;

2.28 (2) mitigating evidence submitted by the business;

2.29 (3) timeliness in addressing deficiencies and providing information; and

2.30 (4) veracity of responses by the business.

2.31 Subd. 6. **Administrative review.** A business may obtain a hearing when the
2.32 commissioner issues an order directing a contract abridged or revoked by filing a written
2.33 request for a hearing with the department within 20 days after service of the notice of
2.34 abridgement or revocation. The hearing shall be a contested case proceeding pursuant to
2.35 sections 14.57 to 14.69.

3.1 Subd. 7. **Technical assistance.** The commissioner must provide technical assistance
3.2 to any business that requests assistance regarding this section.

3.3 Subd. 8. **Audit.** The commissioner shall have authority to audit compliance with
3.4 this section.

3.5 Subd. 9. **Access to data.** Data submitted to the commissioner related to equal pay
3.6 certificates are private data on individuals or nonpublic data with respect to persons other
3.7 than department employees. The commissioner's decision to grant, not grant, revoke or
3.8 suspend an equal pay certificate is public data.

3.9 Subd. 10. **Report.** The commissioner shall report to the governor and the chairs and
3.10 ranking minority members of the committees in the senate and the house of representatives
3.11 with primary jurisdiction over the department by January 31, 2016. The report shall
3.12 indicate the number of equal pay certificates issued, the number of audits conducted, the
3.13 processes used by contractors to ensure compliance with the laws cited in subdivision 2,
3.14 paragraph (a), clause (1), and a summary of its auditing efforts. The commissioner shall
3.15 consult with the Commission on the Economic Status of Women in preparing the report.

3.16 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to any
3.17 solicitation made on or after that date.