

HOUSE BILL 1236

P2, K3

9lr1942

By: **Delegates Queen, D.E. Davis, and Lisanti**
Introduced and read first time: February 8, 2019
Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Contracts – Certification of Pay Equity Compliance – Requirement**

3 FOR the purpose of requiring certain employers to have a certificate of pay equity
4 compliance issued by the Commissioner of Labor and Industry; requiring a custodian
5 of public records to deny the inspection of the part of a public record that contains
6 certain data related to equal pay certificates; prohibiting certain units from entering
7 into a certain contract unless a certain employer has a certain certificate; requiring
8 the Commissioner to approve a certain plan and issue a certain certificate to a
9 certain employer under certain circumstances; requiring the Commissioner to
10 determine whether a certain employer is making a good-faith effort under certain
11 circumstances; specifying that a certain certificate is valid for a certain period of
12 time; requiring the Commissioner to assess a certain fee; providing that certain data
13 submitted to the Commissioner is not subject to disclosure under the Public
14 Information Act; requiring certain revenues to be distributed to a special fund to be
15 used only for a certain purpose; authorizing the Commissioner to suspend or revoke
16 a certain certificate under certain circumstances; authorizing the Commissioner to
17 refuse to approve subsequent plans if a certain employer does not effectively
18 implement a certain plan; authorizing a certain unit to terminate or abridge a certain
19 contract if a certain certificate is suspended or revoked by the Commissioner;
20 authorizing the Commissioner to void a certain contract under certain
21 circumstances; requiring the Commissioner to provide technical assistance to a
22 certain employer under certain circumstances to enable the recertification of a
23 certain employer within a certain period of time; requiring the Commissioner to
24 adopt certain regulations; authorizing the Commissioner to require that certain
25 employers keep certain records and submit certain reports for certain purposes;
26 requiring the Commissioner to submit a certain report to the General Assembly on
27 or before a certain date; providing for the application of this Act; defining certain
28 terms; and generally relating to State contracts and certifications of pay equity
29 compliance by employers.

30 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – General Provisions
 2 Section 4–356
 3 Annotated Code of Maryland
 4 (2014 Volume and 2018 Supplement)

5 BY adding to
 6 Article – State Finance and Procurement
 7 Section 17–801 through 17–807 to be under the new subtitle “Subtitle 8. Certification
 8 of Pay Equity Compliance”
 9 Annotated Code of Maryland
 10 (2015 Replacement Volume and 2018 Supplement)

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 12 That the Laws of Maryland read as follows:

13 **Article – General Provisions**

14 **4–356.**

15 **A CUSTODIAN SHALL DENY INSPECTION OF THE PART OF A PUBLIC RECORD**
 16 **THAT CONTAINS DATA RELATED TO EQUAL PAY CERTIFICATES THAT ARE**
 17 **SUBMITTED TO THE COMMISSIONER OF LABOR AND INDUSTRY UNDER TITLE 17,**
 18 **SUBTITLE 8 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

19 **Article – State Finance and Procurement**

20 **SUBTITLE 8. CERTIFICATION OF PAY EQUITY COMPLIANCE.**

21 **17–801.**

22 **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
 23 **INDICATED.**

24 **(B) “CERTIFICATE” MEANS A CERTIFICATE OF PAY EQUITY COMPLIANCE**
 25 **ISSUED BY THE COMMISSIONER.**

26 **(C) “CLASS” MEANS ONE OR MORE POSITIONS THAT HAVE SIMILAR DUTIES,**
 27 **RESPONSIBILITIES, AND GENERAL QUALIFICATIONS NECESSARY TO PERFORM THE**
 28 **DUTIES, WITH COMPARABLE SELECTION PROCEDURES USED TO RECRUIT**
 29 **EMPLOYEES, AND USE OF THE SAME COMPENSATION SCHEDULE.**

30 **(D) “COMMISSIONER” MEANS THE COMMISSIONER OF LABOR AND**
 31 **INDUSTRY.**

32 **(E) “COMPARABLE WORK VALUE” MEANS THE VALUE OF WORK MEASURED**

1 BY THE SKILL, EFFORT, RESPONSIBILITY, AND WORKING CONDITIONS NORMALLY
2 REQUIRED IN THE PERFORMANCE OF THE WORK.

3 (F) (1) "EMPLOYER" MEANS A CONTRACTOR OR SUBCONTRACTOR THAT
4 HAS A STATE CONTRACT FOR GOODS OR SERVICES VALUED AT \$500,000 OR MORE.

5 (2) "EMPLOYER" DOES NOT INCLUDE A CONTRACTOR OR
6 SUBCONTRACTOR THAT EMPLOYS 40 OR FEWER EMPLOYEES IN THE STATE.

7 (G) "EQUITABLE COMPENSATION RELATIONSHIP" MEANS THAT THE
8 COMPENSATION FOR FEMALE-DOMINATED CLASSES IS NOT CONSISTENTLY BELOW
9 THE COMPENSATION FOR MALE-DOMINATED CLASSES OF COMPARABLE WORK
10 VALUE, AS DETERMINED BY THE COMMISSIONER.

11 (H) "FEMALE-DOMINATED CLASS" MEANS ANY CLASS IN WHICH 70% OR
12 MORE OF THE MEMBERS ARE FEMALE.

13 (I) "MALE-DOMINATED CLASS" MEANS ANY CLASS IN WHICH 80% OR MORE
14 OF THE MEMBERS ARE MALE.

15 17-802.

16 (A) THIS SUBTITLE DOES NOT APPLY TO A CONTRACT:

17 (1) BETWEEN UNITS; OR

18 (2) BETWEEN A UNIT AND A COUNTY OR BALTIMORE CITY.

19 (B) IF THE UNIT RESPONSIBLE FOR A STATE CONTRACT DETERMINES THAT
20 APPLICATION OF THIS SUBTITLE WOULD CONFLICT WITH ANY APPLICABLE FEDERAL
21 PROGRAM REQUIREMENT, THIS SUBTITLE DOES NOT APPLY TO THE CONTRACT OR
22 PROGRAM.

23 17-803.

24 (A) (1) AN EMPLOYER SHALL HAVE A CERTIFICATE OF PAY EQUITY
25 COMPLIANCE.

26 (2) A UNIT MAY NOT ENTER INTO A CONTRACT FOR GOODS AND
27 SERVICES AS PROVIDED UNDER THIS SUBTITLE UNLESS THE EMPLOYER HAS A
28 CERTIFICATE OF PAY EQUITY COMPLIANCE ISSUED BY THE COMMISSIONER.

29 (B) (1) THE COMMISSIONER SHALL APPROVE A PLAN AND ISSUE A

1 CERTIFICATE TO AN EMPLOYER IF THE EMPLOYER:

2 (I) DEMONSTRATES THAT IT IS IN COMPLIANCE WITH
3 EQUITABLE COMPENSATION RELATIONSHIP STANDARDS; OR

4 (II) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, IS
5 MAKING A GOOD-FAITH EFFORT TO ACHIEVE COMPLIANCE WITH EQUITABLE
6 COMPENSATION RELATIONSHIP STANDARDS.

7 (2) THE COMMISSIONER SHALL DETERMINE WHETHER AN
8 EMPLOYER IS MAKING A GOOD-FAITH EFFORT UNDER PARAGRAPH (1)(II) OF THIS
9 SUBSECTION BY APPROVING:

10 (I) A PLAN FOR ACHIEVING COMPLIANCE, INCLUDING THE
11 EMPLOYER'S PROPOSED ACTIONS AND RESPONSES TO THE COMMISSIONER'S
12 RECOMMENDATIONS; AND

13 (II) A PROPOSED DATE FOR ACHIEVING COMPLIANCE AND A
14 REVISED REPORT FOR THE COMMISSIONER'S REVIEW.

15 (C) A CERTIFICATE ISSUED UNDER THIS SECTION IS VALID FOR 2 YEARS.

16 (D) THE COMMISSIONER SHALL ASSESS A FEE OF \$75 FOR EACH
17 CERTIFICATE ISSUED BY THE COMMISSIONER.

18 17-804.

19 ANY DATA SUBMITTED TO THE COMMISSIONER RELATED TO EQUAL PAY
20 CERTIFICATES ARE NOT SUBJECT TO DISCLOSURE UNDER THE PUBLIC
21 INFORMATION ACT.

22 17-805.

23 THE REVENUES FROM THE CERTIFICATION FEE REQUIRED UNDER §
24 17-803(D) OF THIS SUBTITLE SHALL BE DISTRIBUTED TO A SPECIAL FUND, TO BE
25 USED ONLY FOR THE ADMINISTRATION OF THIS SUBTITLE.

26 17-806.

27 (A) (1) A CERTIFICATE MAY BE SUSPENDED OR REVOKED BY THE
28 COMMISSIONER IF THE EMPLOYER IS NOT EFFECTIVELY IMPLEMENTING OR
29 MAKING A GOOD-FAITH EFFORT TO IMPLEMENT THE PLAN APPROVED BY THE
30 COMMISSIONER TO ESTABLISH EQUITABLE COMPENSATION RELATIONSHIPS.

1 **(2) IF AN EMPLOYER DOES NOT EFFECTIVELY IMPLEMENT THE PLAN**
2 **APPROVED BY THE COMMISSIONER OR FAILS TO MAKE A GOOD-FAITH EFFORT TO**
3 **IMPLEMENT THE PLAN, THE COMMISSIONER MAY REFUSE TO APPROVE**
4 **SUBSEQUENT PLANS SUBMITTED BY THE EMPLOYER.**

5 **(B) (1) A CONTRACT AWARDED BY A UNIT MAY BE TERMINATED OR**
6 **ABRIDGED BY THE UNIT IF A CERTIFICATE IS SUSPENDED OR REVOKED BY THE**
7 **COMMISSIONER.**

8 **(2) IF A CONTRACT IS AWARDED BY A UNIT TO AN EMPLOYER THAT**
9 **DOES NOT HAVE A CERTIFICATE, THE COMMISSIONER MAY VOID THE CONTRACT ON**
10 **BEHALF OF THE STATE.**

11 **(C) IF THE COMMISSIONER SUSPENDS AN EMPLOYER'S CERTIFICATE, THE**
12 **COMMISSIONER SHALL PROVIDE TECHNICAL ASSISTANCE TO THE EMPLOYER TO**
13 **ENABLE THE EMPLOYER TO BE RECERTIFIED WITHIN 90 DAYS AFTER THE**
14 **SUSPENSION OF THE EMPLOYER'S CERTIFICATE.**

15 **17-807.**

16 **(A) THE COMMISSIONER SHALL ADOPT REGULATIONS GOVERNING**
17 **EMPLOYERS SUBJECT TO THIS SUBTITLE.**

18 **(B) THE COMMISSIONER MAY REQUIRE AN EMPLOYER TO KEEP RECORDS**
19 **AND SUBMIT REPORTS TO THE COMMISSIONER THAT THE COMMISSIONER**
20 **DETERMINES NECESSARY FOR THE EFFECTIVE ADMINISTRATION AND**
21 **ENFORCEMENT OF THIS SUBTITLE.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before July 1, 2020, the
23 Commissioner of Labor and Industry shall report to the General Assembly, in accordance
24 with § 2-1246 of the State Government Article, on the implementation of Section 1 of this
25 Act, including:

26 (1) the number of certificates of pay equity compliance issued by the
27 Commissioner;

28 (2) the number of employers making good-faith efforts;

29 (3) the number of certificates suspended or revoked; and

30 (4) the number and types of contracts revoked.

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall be construed to
32 apply only prospectively and may not be applied or interpreted to have any effect on or

1 application to any contract in effect before the effective date of this Act.

2 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2019.