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HOUSE BILL 417 State Employment – Wage History and Wage Range (Barron, et al)

STATEMENT OF INFORMATION

DATE: March 3, 2020

COMMITTEE: House Appropriations

SUMMARY OF BILL: HB 417 prohibits State agencies from seeking and relying on wage history of an applicant when screening, considering the applicant for an interview or employment, or in determining the wages of the applicant. It does not pertain to applicants who are State employees seeking a new position in State government. After making an offer for employment, an Appointing Authority may rely on the wage information if the applicant voluntarily provides the information, without prompting, to support a wage offer higher than the initial wage offered by the Appointing Authority. Appointing Authorities may verify information other than wage history disclosed by the applicant or received in a background check, but it may not be used to refuse to hire or determine the wage of the applicant. An applicant for employment may not bring an action against an Appointing Authority that seeks the applicant's wage history.

Additionally, on or before December 1, 2020, the Department of Budget and Management (DBM) must study the effect of laws in other jurisdictions prohibiting an employer from considering an applicant's wage history on wage disparity based on gender, and report its findings and recommendations to the Governor; and, on or before December 1, 2022 and biennially thereafter, DBM shall study salary equity by gender among State employees and report its findings and recommendations to the Governor.

EXPLANATION: Each State Personnel Management System (SPMS) classification has a predetermined grade level, and there are salary guidelines established to define how salaries are determined for various types of hires, e.g., initial appointments, promotions, demotions, reinstatements, etc. Each SPMS agency must abide by the salary guidelines unless they have statutory authority to determine their own salary rules. It is important to note that the [State Salary Schedules](#) are totally transparent.

Salary offers above base require justification and approval. Depending on the salary being offered, the approval authority falls under the hiring agency or with DBM. Therefore, State agencies request verification of an applicant's current salary when the applicant makes a demand for a salary above the

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State offer, pursuant to current State salary guidelines. The State needs to be mindful of hiring new employees at salary levels that are higher than current employees in the same classification. However, an applicant's current pay rate could be an indication of the market rate. There is a distinction between market rate salaries which are best determined through verification, as opposed to the desired salary an applicant seeks –this difference has significant financial ramifications for State personnel costs. If agencies are unable to verify their current salaries, the State is at risk of over inflating the salary offers, with the added financial pressures of having to increase the pay of existing employees performing the same work for purposes of equity and morale.

Chapter 690 of 2018 expresses the General Assembly's concern that paying market rate salaries is creating morale problems among incumbent employees in the same classification who have more seniority and earn less. On January 10, 2020, DBM submitted a report to the General Assembly that outlines a plan to phase-out the practice of hiring a newly appointed employee at a higher pay rate than an incumbent employee who is in the same unit, unless the higher pay rate is based solely on a higher level of relevant qualifications/experience, or an employee transfer.

<file:///S:/Office%20of%20the%20Secretary/2020%20OGR/2020%20Statutory%20Reports/Pay%20Equity%20Report%201.10.20%20Ch%20690%20of%202018.pdf>

Addressing the current wage compression issue by raising salaries of incumbents to match that of new hires entails a burdensome review process with a substantial increase in salary costs. As the report notes, subsequent to negotiations with the unions, it is the intent of DBM's Office of Personnel Services and Benefits to address this issue in FY 2022 and upgrade salaries of existing employees to match the salaries of new hires going forward. Over time, this initiative should provide greater pay equity.

Currently, the State attempts to mitigate the impact of wage compression by seeking verification of applicant's current salary. The combination of disallowing this practice and, at the same time, addressing wage compression magnifies the fiscal impact.

Finally, although this legislation excludes current State employees whose salaries are determined based on their current salary in accordance with DBM's salary rules, the legislation appears to include all other applicants, including reinstatement candidates whose salaries also are determined based on DBM's salary rules.

DBM's website contains the [FY 2019 Annual EEO Report](#) which provides data concerning salary by race and gender and is updated annually.

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