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DEPARTMENT OF BUDGET AND MANAGEMENT

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HOUSE BILL 123 Labor and Employment – Wage History and Wage Range (K. Young, et al)

STATEMENT OF INFORMATION

DATE: February 4, 2020

COMMITTEE: House Economic Matters Committee

SUMMARY OF BILL: HB 123 requires an employer, upon request, to provide to an applicant for employment the pay scale for a position and prohibits an employer from seeking and relying on wage history of an employee or applicant when screening, considering the applicant for an interview or employment, or in determining the wages of the applicant. After making an offer for employment, an employer may rely on the wage information if the applicant voluntarily provides the information, without prompting. Civil penalties are imposed by the Commissioner of Labor for violations.

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.

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 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 pressure 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.

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