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Bill Analysis
Legislative Service Commission

H.B. 450

124th General Assembly
(As Introduced)

Reps. Sykes, Key, R. Miller, Allen, Krupinski, Otterman, D. Miller, Strahorn, Carano, Rhine, Jones, Fedor

BILL SUMMARY

- Establishes a civil penalty for unlawfully discriminating in the payment of wages.
- Creates the Equal Pay Penalty Fund, into which civil penalties collected under the bill are deposited.
- Requires the Director of Commerce to administer the Equal Pay Penalty Fund and specifies that the fund may be used solely for purposes of administering and enforcing the law prohibiting unlawful wage discrimination.
- Creates the Equal Pay Study Committee consisting of nine members appointed by the Director of Commerce.
- Requires the Equal Pay Study Committee to study and report on the extent, causes, and consequences of, and actions to eliminate and prevent, wage disparities between men and women and between minorities and non-minorities.

CONTENT AND OPERATION

Prohibition against unlawful wage discrimination

Current law prohibits an employer from discriminating in the payment of wages on the basis of race, color, religion, sex, age, national origin, or ancestry by paying wages to any employee at a rate less than the rate at which the employer pays wages to another employee for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar conditions. An employer may, however, pay different wages for equal

work when the wage determination is based on a seniority system or by merit or quantity or quality of production, or when based on any factor other than race, color, religion, sex, age, national origin, or ancestry. (Sec. 4111.17(A) and (B).)

The Director of Commerce currently administers and enforces this wage discrimination prohibition. Existing law specifies that any employee discriminated against in violation of this prohibition may sue in any court of competent jurisdiction to recover two times the amount of the difference between the wages actually received and the wages received by a person performing equal work for the employer, from the date of the commencement of the violation, and for costs, including attorney fees. (Sec. 4111.17(D).)

Civil penalty created for unlawful wage discrimination

Under the bill, any employer against whom a final judgment is entered for monetary damages pursuant to the type of action described above, must pay a civil penalty to the state equal to 10% of the amount of damages owed pursuant to that action. This penalty must be deposited into the Equal Pay Penalty Fund, which is created by the bill in the state treasury. The fund must be administered by the Director. The Treasurer of State must credit to the fund amounts collected by the Director under the bill and interest earned on the assets of the fund. The bill specifies that the fund must be used solely for the purpose of administering and enforcing the law prohibiting unlawful wage discrimination. (Sec. 4111.17(E).)

Equal Pay Study Committee

Creation

The bill creates the Equal Pay Study Committee, which consists of nine members appointed by the Director of Commerce according to the following criteria:

(1) Two representatives of the business community from a list of individuals nominated by state business organizations and business trade associations;

(2) Two representatives of labor organizations who have been nominated by state labor federations that are chartered by a federation of national or international unions, admit local unions to membership, and exist primarily to carry on educational, legislative, and coordinating activities;

(3) Two representatives of organizations whose objectives include the elimination of pay disparities between men and women and minorities and non-minorities, and who have undertaken advocacy, educational, or legislative initiatives in pursuit of that objective;

(4) Three individuals drawn from higher education or research institutions who have experience and expertise in the collection and analysis of data concerning pay disparities between men and women and minorities and non-minorities and whose research has already been used in efforts to promote the elimination of those disparities. (Section 3(A).)

The Director must make initial appointments not later than 90 days after the bill's effective date and must fill vacancies in the same manner as original appointments. The Director must appoint the chairperson of the Committee. Members of the Committee serve without compensation. The Department of Commerce must provide facilities for Committee meetings and clerical or other services required by the Committee in performing its official duties, and must be responsible for any administrative expenses incurred by the Committee in performing its official duties. The Committee must hold its first meeting within 14 days after the initial appointments to the Committee have been made. (Section 3(B) and (C).)

Study required

The Committee must make a full and complete study of all of the following:

(1) The extent of wage disparities, both in the public and private sector, between men and women and between minorities and non-minorities;

(2) Those factors that cause, or that tend to cause disparities in wages, including: segregation of men and women and minorities and non-minorities across and within occupations, payment of lower wages for female-dominated occupations, child-rearing responsibilities, education, and training;

(3) The consequences of wage disparities on the economy and families affected;

(4) Actions, including proposed legislation, that are likely to lead to the elimination and prevention of wage disparities. (Section 3(C).)

Report required

Not later than 12 months after the last member of the Committee has been appointed, the Committee must submit a report of its findings to the Director, who must transmit the report to the Governor, after which event the Committee must cease to exist. The Committee's report must contain the results of its findings, as well as recommendations, legislative and otherwise, for the elimination and prevention of disparities in wages between men and women and minorities and non-minorities. (Section 3(D).)

HISTORY

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