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1   AMENDMENT TO HOUSE BILL 3539

2   AMENDMENT NO. _____. Amend House Bill 3539 by replacing

3   everything after the enacting clause with the following:

4   "Section 1. Short title. This Act may be cited as the Equal

5   Pay Certificate Act.

6   Section 5. Scope of Act.

7   (a) After June 1, 2018, no contract to which this Act

8   applies shall be executed with a bidder, offeror, contractor,

9   vendor, or potential contractor, as defined in the Illinois

10   Procurement Code, unless it has an equal pay certificate or it

11   has an equal pay certificate or it has certified in writing

12   that it is exempt.

13   (b) A certificate is valid for 4 years.

14   Section 10. Application for equal pay certificate.

15   (a) A bidder shall apply for equal pay certificate by

1   paying a $150 filing fee and submitting an equal pay compliance

2   statement to the Department of Employment Security. The

3   proceeds from the fees collected under this Act shall be

4   deposited in to the Equal Pay Certificate Fund, a special fund

5   created in the State Treasury. Money in the Fund shall be

6   appropriated to the Department of Employment Security for the

7   purposes of this Act. The Department of Employment Security

8   shall issue an equal pay certificate of compliance to a

9   business that submits to the Department of Employment Security

10   a statement signed by the chairperson of the board of chief

11   executive officer of that business:

12   (1) that the business is in compliance with Title VII

13   of the Civil Rights Act of 1964, the Equal Pay Act of 2003,

14   the Equal Wage Act, and the Illinois Human Rights Act;

15   (2) that the average compensation for its female

16   employees is not consistently below the average

17   compensation for its male employees within each of the

18   major job categories in the Employer Information Report

19   EEO-1 for which an employee is expected to perform work

20   under the contract, taking into account factors such as

21   length of service, requirements of specific jobs,

22   experience, skill, effort, responsibility, working

23   conditions of the job, or other mitigating factors;

24   (3) that the business does not restrict employees of

25   one sex to certain job classifications and makes retention

26   and promotion decisions without regard to sex;

1   (4) that wage and benefit disparities are corrected

2   when identified to ensure compliance with the laws cited in

3   item (1) and with item (2); and

4   (5) how often wages and benefits are evaluated to

5   ensure compliance with the laws cited in item (1) and with

6   item (2).

7 (b) The equal pay compliance statement shall also indicate

8 whether the business, in setting compensation and benefits

9 utilizes:

10   (1) a market pricing approach;

11   (2) state prevailing wage or union contract

12   requirements;

13   (3) a performance pay system;

14   (4) an internal analysis; or

15   (5) an alternative approach to determine what level of

16   wages and benefits to pay its employees.

17 If the business uses an alternative approach, the business

18 must provide a description of its approach.

19 (c) Receipt of the equal pay compliance statement by the

20 Department of Employment Security does not establish

21 compliance with the laws identified in item (1) of subsection

22 (a).

23 Section 15. Issuance or rejection of certificate. The

24 Department of Employment Security must issue an equal pay

25 certificate, or a statement of why the application was

1   rejected, within 15 days after receipt of the application. An

2   application may be rejected only if it does not comply with the

3   requirements of Section 10.

4   Section 20. Revocation of certificate. An equal pay

5   certificate for a business may be suspended or revoked by the

6   Department of Employment Security when the business fails to

7   make a good-faith effort to comply with the laws identified in

8   item (1) of subsection (a) of Section 10, fails to make a

9   good-faith effort to comply with this Act, or has multiple

10 violations of this Article or the laws identified in item (1)

11 of subsection (a) of Section 10. Prior to suspending or

12 revoking a certificate, the Department of Employment Security

13 must first have sought to conciliate with the business

14 regarding wages and benefits due to employees.

15   Section 25. Administrative review.

16   (a) A business may obtain an administrative hearing before

17 the suspension or revocation of its certificate is effective

18 pursuant to the Illinois Administrative Procedure Acts.

19   (b) The Department of Employment Security shall adopt rules

20 for the fair administration of suspending or revoking equal pay

21 certificates by March 1, 2018.

22   Section 30. Revocation of contract.

23   (a) If a contract is awarded to a business that does have

1   an equal pay certificate as required under Section 10, or a

2   business that is not in compliance with subsection (a) of

3   Section 10, the Department of Employment Security may recommend

4   that the contract be voided by the applicable Chief Procurement

5   Officer   as   provided   by   Section   50-60   of   the   Illinois

6   Procurement Code. The purchasing agency that is a party to the

7   agreement must be notified by the Department of Employment

8   Security prior to the Department of Employment Security making

9   a recommendation to the applicable Chief Procurement Officer.

10   (b) A contract subject to this Act may be amended or

11   terminated upon notice that the Department of Employment

12   Security has suspended or revoked the certificate of the

13   business.

14   Section 35. Technical Assistance. The Department of

15   Employment Security must provide technical assistance to any

16   business that requests assistance regarding this Act.

17   Section 40. Audit. The Department of Employment Security

18   may audit the business' compliance with this Act. As part of an

19   audit, upon request, a business must provide the Department of

20   Employment Security the following information with respect to

21   employees expected to perform work under the contract in each

22   of the major job categories in the Employer Information Report

23   EEO-1:

24   (1) number of male employees;

1   (2) number of female employees;

2   (3) average annualized salaries paid to male employees

3   and to female employees, in the manner most consistent with

4   the employer's compensation system, within each major job

5   category;

6   (4) information on performance payments, benefits, or

7   other elements of compensation, in the manner most

8   consistent with the employer's compensation system, if

9   requested by the Department of Employment Security as part

10   of a determination as to whether these elements of

11   compensation are different for male and female employees;

12   (5) average length of service for male and female

13   employees in each major job category; and

14   (6) other information identified by the business or by

15   the Department of Employment Security, as needed, to

16   determine compliance with items specified in subsection

17   (a) of Section 10.

18   Section 45. Access to data. Data submitted to the

19   Department of Employment Security related to equal pay

20   certificates are private data on individuals or nonpublic data

21   with respect to persons other than Department employees. The

22   Department's decision to issue, not issue, revoke, or suspend

23   an equal pay certificate is public data. The Department shall

24   publish a list of all businesses in compliance with this Act

25   with current and valid equal pay certificates on its website.

1   Section 50. Report. The Department of Employment Security
2 shall report to the Governor and the General Assembly by
3 January 31 of every odd-numbered year, beginning January 31,
4 2019. The report shall indicate the number of equal pay
5 certificates issued, the number of audits conducted, the
6 processes used by contractors to ensure compliance with
7 subsection (a) of Section 10, and a summary of its auditing
8 efforts.

9   Section 55. The State Finance Act is amended by adding
10 Section 5.878 as follows:

11   (30 ILCS 105/5.878 new)
12   Sec. 5.878. The Equal Pay Certificate Fund.

13   Section 99. Effective date. This Act takes effect upon
14 becoming law.".