

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 16-0096.01 Nicole Myers x4326

HOUSE BILL 16-1001

HOUSE SPONSORSHIP

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SENATE SPONSORSHIP

(None),

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A REQUIREMENT THAT A BUSINESS PERFORMING WORK**
102 **FOR THE STATE PURSUANT TO A STATE CONTRACT COMPLY WITH**
103 **EQUAL PAY STANDARDS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires a business that bids for a contract with a governmental body to submit with its bid certification that it is in compliance with state and federal equal pay standards and laws; except that this requirement does not apply to businesses that have 50 or fewer employees.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The executive director of the department of personnel, or the executive director's designee (executive director), is required to develop a form for a business to use to certify that it is in compliance with equal pay standards and laws and that, if awarded a contract, it will remain in compliance with such standards and laws throughout the term of the contract. The executive director is required to ensure that the form requires a business to certify certain general information regarding its employees and employment and hiring practices in connection with equal pay laws.

A business that is awarded a contract is required to ensure that any subcontractor that it uses to fulfill the terms of the contract is also in compliance with equal pay standards and laws.

All businesses that are awarded contracts by a governmental body or that are subcontractors for a business that was awarded a contract by a governmental body are required to keep and maintain certain information related to their employees, broken down into categories by gender, race, ethnicity, and national origin, for the term of the contract with the governmental body.

If, after awarding a contract to a business, a governmental body determines that the business knowingly submitted false information on the certification form for equal pay compliance required by the bill, the governmental body is required to terminate the contract.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 24-103-405 as
3 follows:

4 **24-103-405. Business compliance with equal pay standards.**

5 (1) A GOVERNMENTAL BODY SHALL NOT AWARD A CONTRACT TO A
6 BUSINESS PURSUANT TO THIS CODE UNLESS THE BUSINESS SUBMITS WITH
7 ITS BID CERTIFICATION THAT THE BUSINESS IS IN COMPLIANCE WITH STATE
8 AND FEDERAL EQUAL PAY STANDARDS AND LAWS WHEN THE BID IS
9 SUBMITTED AND THAT, IF THE CONTRACT IS AWARDED TO THE BUSINESS,
10 IT WILL REMAIN IN COMPLIANCE WITH SUCH LAWS THROUGHOUT THE TERM
11 OF THE CONTRACT; EXCEPT THAT THIS SECTION SHALL NOT APPLY TO
12 BUSINESSES WITH FIFTY OR FEWER EMPLOYEES.

13 (2) THE EXECUTIVE DIRECTOR OR THE EXECUTIVE DIRECTOR'S

1 DESIGNEE SHALL DEVELOP A FORM FOR A BUSINESS TO USE TO CERTIFY
2 THAT IT IS IN COMPLIANCE WITH EQUAL PAY STANDARDS AND LAWS TO
3 SATISFY THE REQUIREMENTS OF SUBSECTION (1) OF THIS SECTION. THE
4 DEPARTMENT SHALL MAKE INFORMATION ABOUT THE CERTIFICATION
5 PROCESS AND THE REQUIRED CERTIFICATION FORM AVAILABLE ON THE
6 DEPARTMENT'S WEBSITE. THE EXECUTIVE DIRECTOR OR THE EXECUTIVE
7 DIRECTOR'S DESIGNEE SHALL ENSURE THAT THE FORM REQUIRES A
8 BUSINESS TO CERTIFY THAT:

9 (a) THE BUSINESS DOES NOT PAY ANY OF ITS EMPLOYEES AT WAGE
10 RATES LESS THAN THE RATES PAID TO OTHER EMPLOYEES ON THE BASIS OF
11 GENDER, RACE, ETHNICITY, OR NATIONAL ORIGIN FOR SUBSTANTIALLY
12 SIMILAR WORK, WHEN VIEWED AS A COMPOSITE OF SKILL, EFFORT, AND
13 RESPONSIBILITY AND PERFORMED UNDER SIMILAR WORKING CONDITIONS,
14 EXCEPT WHERE THE WAGE DIFFERENTIAL IS BASED UPON ONE OR MORE OF
15 THE FOLLOWING FACTORS:

- 16 (I) A SENIORITY SYSTEM;
- 17 (II) A MERIT SYSTEM;
- 18 (III) A SYSTEM THAT MEASURES EARNINGS BY QUANTITY OR
19 QUALITY OF PRODUCTION; OR
- 20 (IV) A BONA FIDE FACTOR OTHER THAN GENDER, RACE, ETHNICITY,
21 OR NATIONAL ORIGIN, SUCH AS EDUCATION, TRAINING, OR EXPERIENCE;

22 (b) EMPLOYEES OF THE BUSINESS CANNOT BE DISCIPLINED FOR
23 SHARING INFORMATION REGARDING EMPLOYEE COMPENSATION WITH
24 OTHER EMPLOYEES OF THE BUSINESS;

25 (c) FOR ANY JOB POSTING, THE BUSINESS INCLUDES INFORMATION
26 REGARDING THE SALARY RANGE FOR THE AVAILABLE POSITION;

27 (d) THE BUSINESS DOES NOT RESTRICT EMPLOYEES OF ONE

1 GENDER, RACE, ETHNICITY, OR NATIONAL ORIGIN TO CERTAIN JOB
2 CLASSIFICATIONS AND MAKES RETENTION AND PROMOTION DECISIONS
3 WITHOUT REGARD TO GENDER, RACE, ETHNICITY, OR NATIONAL ORIGIN;

4 (e) WAGE AND BENEFIT DISPARITIES ARE CORRECTED WHEN
5 IDENTIFIED TO ENSURE COMPLIANCE WITH EQUAL PAY STANDARDS AND
6 LAWS; AND

7 (f) WAGES AND BENEFITS ARE PERIODICALLY EVALUATED TO
8 ENSURE COMPLIANCE WITH EQUAL PAY STANDARDS AND LAWS, INCLUDING
9 HOW OFTEN SUCH EVALUATION OCCURS.

10 (3) A BUSINESS THAT IS AWARDED A CONTRACT BY A
11 GOVERNMENTAL BODY SHALL ENSURE THAT ANY SUBCONTRACTOR THAT
12 THE BUSINESS USES TO FULFILL THE TERMS OF THE CONTRACT COMPLIES
13 WITH THE CRITERIA SPECIFIED IN PARAGRAPHS (a) TO (f) OF SUBSECTION
14 (2) OF THIS SECTION.

15 (4) ANY BUSINESS THAT IS AWARDED A CONTRACT BY A
16 GOVERNMENTAL BODY OR THAT IS A SUBCONTRACTOR FOR A BUSINESS
17 THAT WAS AWARDED A CONTRACT BY A GOVERNMENTAL BODY SHALL
18 KEEP AND MAINTAIN THE FOLLOWING INFORMATION FOR THE TERM OF THE
19 CONTRACT WITH THE GOVERNMENTAL BODY:

20 (a) WAGES EARNED BY EMPLOYEES OF THE BUSINESS,
21 CATEGORIZED BY OCCUPATION, AND WITHIN EACH OCCUPATION,
22 CATEGORIZED BY GENDER, RACE, ETHNICITY, AND NATIONAL ORIGIN;

23 (b) THE NUMBER OF EMPLOYEES THAT THE BUSINESS EMPLOYS
24 CATEGORIZED BY OCCUPATION, AND WITHIN EACH OCCUPATION,
25 CATEGORIZED BY GENDER, RACE, ETHNICITY, AND NATIONAL ORIGIN;

26 (c) THE AVERAGE ANNUALIZED SALARIES PAID TO EMPLOYEES, IN
27 THE MANNER MOST CONSISTENT WITH THE EMPLOYER'S COMPENSATION

1 SYSTEM, WITHIN EACH MAJOR JOB CATEGORY, CATEGORIZED BY GENDER,
2 RACE, ETHNICITY, AND NATIONAL ORIGIN; AND

3 (d) THE AVERAGE LENGTH OF EMPLOYMENT BY THE BUSINESS FOR
4 EMPLOYEES IN EACH MAJOR JOB CATEGORY, CATEGORIZED BY GENDER,
5 RACE, ETHNICITY, AND NATIONAL ORIGIN.

6 (5) THE STATE IS ENTITLED TO AUDIT THE RECORDS OF ANY
7 CONTRACTOR OR SUBCONTRACTOR UNDER ANY NEGOTIATED CONTRACT
8 OR SUBCONTRACT TO DETERMINE A CONTRACTOR OR SUBCONTRACTOR'S
9 COMPLIANCE WITH EQUAL PAY LAWS AND THE CRITERIA SPECIFIED IN
10 PARAGRAPHS (a) TO (f) OF SUBSECTION (2) OF THIS SECTION.

11 (6) IF, AFTER AWARDING A CONTRACT TO A BUSINESS, A
12 GOVERNMENTAL BODY DETERMINES THAT THE BUSINESS KNOWINGLY
13 SUBMITTED FALSE INFORMATION ON THE CERTIFICATION FORM FOR EQUAL
14 PAY COMPLIANCE REQUIRED BY THIS SECTION, THE GOVERNMENTAL BODY
15 IS REQUIRED TO TERMINATE THE CONTRACT.

16 **SECTION 2. Applicability.** This act applies to contracts entered
17 into on and after the effective date of this act.

18 **SECTION 3. Act subject to petition - effective date.** This act
19 takes effect at 12:01 a.m. on the day following the expiration of the
20 ninety-day period after final adjournment of the general assembly (August
21 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
22 referendum petition is filed pursuant to section 1 (3) of article V of the
23 state constitution against this act or an item, section, or part of this act
24 within such period, then the act, item, section, or part will not take effect
25 unless approved by the people at the general election to be held in
26 November 2016 and, in such case, will take effect on the date of the
27 official declaration of the vote thereon by the governor.