

**House File 2159 - Introduced**

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**A BILL FOR**

1 An Act relating to wage discrimination under the Iowa civil  
2 rights Act of 1965 and in state contracting, making  
3 penalties applicable, and establishing an equal pay task  
4 force.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 19B.7A State contracts — race and  
2 gender compensation reporting.

3 1. For purposes of ensuring compliance with chapter 216  
4 and this chapter, a nonstate party to a contract for goods or  
5 services with the state shall submit the following information  
6 regarding each of its employees in a report to the department  
7 of administrative services and the civil rights commission  
8 annually by January 1:

- 9 a. Total annual compensation.
- 10 b. Occupation.
- 11 c. Sex.
- 12 d. Race.
- 13 e. Length of employment.
- 14 f. Highest level of education attained.
- 15 g. Years of experience relevant to the employee's job.

16 2. Names of employees shall not be included in the report.

17 Sec. 2. Section 216.6A, Code 2016, is amended by adding the  
18 following new subsections:

19 NEW SUBSECTION. 2A. It shall be an unfair or discriminatory  
20 practice for any employer or agent of any employer to do any of  
21 the following:

22 a. Require, as a condition of employment, that an employee  
23 refrain from disclosing, discussing, or sharing information  
24 about the amount of the employee's wages, benefits, or other  
25 compensation or from inquiring, discussing, or sharing  
26 information about any other employee's wages, benefits, or  
27 other compensation.

28 b. Require, as a condition of employment, that an employee  
29 sign a waiver or other document that requires an employee to  
30 refrain from engaging in any of the activities permitted under  
31 paragraph "a".

32 c. Discriminate or retaliate against an employee for  
33 engaging in any of the activities permitted under paragraph "a".

34 d. Seek salary history information, including but not  
35 limited to information on compensation and benefits, from

1 a potential employee as a condition of a job interview or  
2 employment. This paragraph shall not be construed to prohibit  
3 a prospective employer from asking a prospective employee what  
4 salary level the prospective employee would require in order to  
5 accept a job.

6 e. Release the salary history, including but not limited  
7 to information on compensation and benefits, of any current  
8 or former employee to any prospective employer in response to  
9 a request as part of an interview or hiring process without  
10 written authorization from such current or former employee.

11 f. Publish, list, or post within the employer's  
12 organization, with any employment agency, job-listing  
13 service, or internet site, or in any other public manner, an  
14 advertisement to recruit candidates for hire or independent  
15 contractors to fill a position within the employer's  
16 organization without including the minimum rate of pay of the  
17 position. The rate of pay may be by the hour, shift, day, week,  
18 salary, piece, commission, or other applicable rate. The rate  
19 of pay shall include overtime and allowances, if any, claimed  
20 as part of the minimum wage, including but not limited to  
21 tipped wages.

22 g. Pay a newly hired employee at less than the rate of pay  
23 advertised for the employee's position under paragraph "f".

24 NEW SUBSECTION. 5. The commission shall establish a  
25 statewide, toll-free telephone hotline for the purpose of  
26 receiving reports of violations of this section.

27 Sec. 3. Section 216.6A, subsection 3, Code 2016, is amended  
28 to read as follows:

29 3. a. It shall be an affirmative defense to a claim arising  
30 under [this section](#) if any of the following applies:

31 ~~a.~~ (1) Payment of wages is made pursuant to a seniority  
32 system.

33 ~~b.~~ (2) Payment of wages is made pursuant to a merit system.

34 ~~c.~~ (3) Payment of wages is made pursuant to a system which  
35 measures earnings by quantity or quality of production.

1 ~~d.~~ (4) Pay differential is based on any other bona fide  
2 factor other than the age, race, creed, color, sex, sexual  
3 orientation, gender identity, national origin, religion,  
4 or disability of such employee, including but not limited  
5 to a bona fide factor relating to education, training, or  
6 experience. This defense shall apply only if the employer  
7 demonstrates that the factor is not based on or derived from  
8 a differential in compensation based on age, race, creed,  
9 color, sex, sexual orientation, gender identity, national  
10 origin, religion, or disability; is job related with respect  
11 to the position in question; and is consistent with a business  
12 necessity. For purposes of this subparagraph, "business  
13 necessity" means an overriding legitimate business purpose  
14 such that the factor relied upon effectively fulfills the  
15 business purpose it is supposed to serve. This affirmative  
16 defense shall not apply if the employee demonstrates that an  
17 alternative business practice exists that would serve the same  
18 business purpose without producing the wage differential.  
19 b. An affirmative defense under this subsection is not  
20 applicable unless one or more of the defenses listed in  
21 paragraph "a" account for the entire pay differential that is  
22 the subject of the claim.

23 Sec. 4. EQUAL PAY TASK FORCE AND REPORT.

24 1. An equal pay task force is created. The task force shall  
25 consist of the following members:

26 a. The director of the civil rights commission, or the  
27 director's designee.

28 b. The director of the department of human rights, or the  
29 director's designee.

30 c. An employee of the labor market information division  
31 of the department of workforce development designated by the  
32 director of the department.

33 d. A representative of the association of business and  
34 industry, appointed by the president of the association.

35 e. A member of a statewide labor organization appointed by

1 the president of the organization.

2 f. Two representatives of organizations whose objectives  
3 include the elimination of pay disparities between men and  
4 women and minorities and nonminorities and that have undertaken  
5 advocacy, educational, or legislative initiatives in pursuit  
6 of such objectives appointed by the director of the civil  
7 rights commission in consultation with the leadership of those  
8 organizations.

9 g. Two representatives of postsecondary education  
10 institutions who have experience and expertise in the  
11 collection and analysis of data concerning pay disparities  
12 between men and women and minorities and nonminorities  
13 and whose research has been used in efforts to promote the  
14 elimination of such disparities appointed by the director of  
15 the civil rights commission in consultation with the leadership  
16 of those institutions.

17 h. Four members of the general assembly serving as  
18 ex officio, nonvoting members, one representative to be  
19 appointed by the speaker of the house of representatives, one  
20 representative to be appointed by the minority leader of the  
21 house of representatives, one senator to be appointed by the  
22 majority leader of the senate, and one senator to be appointed  
23 by the minority leader of the senate.

24 2. The task force shall study all of the following:

25 a. The extent of wage disparities, both in the public and  
26 private sectors, between men and women and between minorities  
27 and nonminorities.

28 b. Factors that cause, or which tend to cause, such  
29 disparities, including segregation between women and  
30 men and between minorities and nonminorities across and  
31 within occupations, payment of lower wages for work in  
32 female-dominated occupations, child-rearing responsibilities,  
33 the number of women who are heads of households, education,  
34 hours worked, and years on the job.

35 c. The consequences of such disparities on the economy and

1 affected families.

2 d. Actions likely to lead to the elimination and prevention  
3 of such disparities.

4 3. The civil rights commission shall provide staffing  
5 services for the task force.

6 4. The voting members shall elect a chairperson from the  
7 voting membership of the task force. A majority of the voting  
8 members of the task force constitutes a quorum.

9 5. Voting members of the task force shall receive  
10 reimbursement for actual expenses incurred while serving  
11 in their official capacity only if they are not eligible  
12 for reimbursement by the organization that they represent.  
13 Legislative members shall be paid the per diem and expenses  
14 specified in section 2.10.

15 6. The task force shall submit a report regarding its  
16 findings and its recommendations regarding potential actions  
17 for the elimination and prevention of disparities in wages  
18 between men and women and minorities and nonminorities to the  
19 governor and the general assembly no later than December 22,  
20 2017.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with  
23 the explanation's substance by the members of the general assembly.

24 This bill relates to wage discrimination under Iowa Code  
25 chapter 216, the Iowa civil rights Act of 1965, and state  
26 contracting, and establishes an equal pay task force.

27 WAGE DISCRIMINATION IN STATE CONTRACTING. The bill requires  
28 a nonstate party to a contract for goods or services with the  
29 state to submit certain information regarding each of its  
30 employees in a report to the department of administrative  
31 services and the civil rights commission annually by January 1  
32 for purposes of ensuring compliance with Code chapters 19B and  
33 216. The required information is an employee's total annual  
34 compensation, occupation, sex, race, length of employment,  
35 highest level of education attained, and years of experience

1 relevant to the employee's job. Names of employees shall not  
2 be included in the report.

3 WAGE DISCRIMINATION IN EMPLOYMENT. The bill establishes  
4 additional unfair or discriminatory practices relating to wages  
5 under Code section 216.6A. Penalty and remedial provisions  
6 for discriminatory employment practices, including penalties  
7 specific to wage discrimination, are applicable under Code  
8 chapter 216 to violations of these requirements.

9 The bill prohibits an employer from requiring that an  
10 employee refrain from disclosing, discussing, or sharing  
11 information about the amount of the employee's wages, benefits,  
12 or other compensation or from inquiring, discussing, or sharing  
13 information about any other employee's wages, benefits, or  
14 other compensation as a condition of employment. The bill  
15 prohibits an employer from requiring that an employee sign a  
16 waiver or other document that requires an employee to refrain  
17 from engaging in any of those activities as a condition of  
18 employment. The bill prohibits an employer from discriminating  
19 or retaliating against an employee for engaging in any of the  
20 activities.

21 The bill prohibits an employer from seeking salary history  
22 information from a potential employee as a condition of a job  
23 interview or employment. This provision shall not be construed  
24 to prohibit a prospective employer from asking a prospective  
25 employee what salary level the prospective employee would  
26 require in order to accept a job.

27 The bill prohibits an employer from releasing the salary  
28 history of any current or former employee to any prospective  
29 employer in response to a request as part of an interview or  
30 hiring process without written authorization from such current  
31 or former employee.

32 The bill prohibits an employer from publishing, listing, or  
33 posting within the employer's organization, with any employment  
34 agency, job-listing service, or internet site, or in any other  
35 public manner, an advertisement to recruit candidates for

1 hire or independent contractors to fill a position within the  
2 employer's organization without including the minimum rate of  
3 pay of the position. The rate of pay shall include overtime  
4 and allowances, if any, claimed as part of the minimum wage,  
5 including but not limited to tipped wages. The bill prohibits  
6 an employer from paying a newly hired employee at less than the  
7 rate of pay advertised for the employee's position.

8 Under current law, an employer has an affirmative defense  
9 to a claim under Code section 216.6A if a pay differential  
10 is based on any other factor other than prohibited wage  
11 discrimination. The bill provides that an employer has an  
12 affirmative defense to a claim under Code section 216.6A if a  
13 pay differential is based on any other bona fide factor other  
14 than prohibited discrimination, including but not limited  
15 to a bona fide factor relating to education, training, or  
16 experience. However, this defense shall only apply if the  
17 employer demonstrates that the factor is not based on or  
18 derived from prohibited wage discrimination, is job related  
19 with respect to the position in question, and is consistent  
20 with a business necessity. The bill defines "business  
21 necessity" as an overriding legitimate business purpose  
22 such that the factor relied upon effectively fulfills the  
23 business purpose it is supposed to serve. This affirmative  
24 defense shall not apply if the employee demonstrates that an  
25 alternative business practice exists that would serve the same  
26 business purpose without producing the wage differential.

27 The bill provides that affirmative defenses to a claim under  
28 Code section 216.6A are not applicable unless one or more of  
29 the defenses account for the entire pay differential that is  
30 the subject of the claim.

31 The bill also requires the civil rights commission to  
32 establish a statewide, toll-free telephone hotline for the  
33 purpose of receiving reports of violations of Code section  
34 216.6A.

35 **EQUAL PAY TASK FORCE.** The bill creates an equal pay task

1 force to study the extent of discriminatory wage disparities  
2 in the public and private sectors, the factors that cause  
3 such disparities, the consequences of such disparities, and  
4 actions likely to lead to the elimination and prevention of  
5 such disparities.

6 The bill establishes the membership of the task force,  
7 including ex officio, nonvoting legislative members. The civil  
8 rights commission shall provide staffing services for the task  
9 force.

10 The task force shall submit a report regarding its findings  
11 and its recommendations regarding potential actions for the  
12 elimination and prevention of discriminatory wage disparities  
13 to the governor and the general assembly no later than December  
14 22, 2017.