

**Senate Study Bill 3071 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON LABOR AND BUSINESS  
RELATIONS BILL BY  
CHAIRPERSON BISIGNANO)

**A BILL FOR**

1 An Act relating to wage discrimination under the Iowa civil  
2 rights Act of 1965, making penalties applicable, and  
3 establishing an equal pay task force.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 216.6A, Code 2016, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 2A. It shall be an unfair or discriminatory  
4 practice for any employer or agent of any employer to do any of  
5 the following:

6 a. Require, as a condition of employment, that an employee  
7 refrain from disclosing, discussing, or sharing information  
8 about the amount of the employee's wages, benefits, or other  
9 compensation or from inquiring, discussing, or sharing  
10 information about any other employee's wages, benefits, or  
11 other compensation.

12 b. Require, as a condition of employment, that an employee  
13 sign a waiver or other document that requires an employee to  
14 refrain from engaging in any of the activities permitted under  
15 paragraph "a".

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

18 d. Seek salary history information, including but not  
19 limited to information on compensation and benefits, from  
20 a potential employee as a condition of a job interview or  
21 employment. This paragraph shall not be construed to prohibit  
22 a prospective employer from asking a prospective employee what  
23 salary level the prospective employee would require in order to  
24 accept a job.

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

30 f. Publish, list, or post within the employer's  
31 organization, with any employment agency, job-listing  
32 service, or internet site, or in any other public manner, an  
33 advertisement to recruit candidates for hire or independent  
34 contractors to fill a position within the employer's  
35 organization without including the minimum rate of pay of the

1 position. The rate of pay may be by the hour, shift, day, week,  
2 salary, piece, commission, or other applicable rate. The rate  
3 of pay shall include overtime and allowances, if any, claimed  
4 as part of the minimum wage, including but not limited to  
5 tipped wages.

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

8 Sec. 2. Section 216.6A, subsection 3, Code 2016, is amended  
9 to read as follows:

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

12 ~~a.~~ (1) Payment of wages is made pursuant to a seniority  
13 system.

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

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

17 ~~d.~~ (4) Pay differential is based on any other bona fide  
18 factor other than the age, race, creed, color, sex, sexual  
19 orientation, gender identity, national origin, religion,  
20 or disability of such employee, including but not limited  
21 to a bona fide factor relating to education, training, or  
22 experience. This defense shall apply only if the employer  
23 demonstrates that the factor is not based on or derived from  
24 a differential in compensation based on age, race, creed,  
25 color, sex, sexual orientation, gender identity, national  
26 origin, religion, or disability; is job related with respect  
27 to the position in question; and is consistent with a business  
28 necessity. For purposes of this subparagraph, "business  
29 necessity" means an overriding legitimate business purpose  
30 such that the factor relied upon effectively fulfills the  
31 business purpose it is supposed to serve. This affirmative  
32 defense shall not apply if the employee demonstrates that an  
33 alternative business practice exists that would serve the same  
34 business purpose without producing the wage differential.

35 b. An affirmative defense under this subsection is not

1 applicable unless one or more of the defenses listed in  
2 paragraph "a" account for the entire pay differential that is  
3 the subject of the claim.

4 Sec. 3. EQUAL PAY TASK FORCE AND REPORT.

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

7 a. The director of the civil rights commission, or the  
8 director's designee.

9 b. The director of the department of human rights, or the  
10 director's designee.

11 c. An employee of the labor market information division  
12 of the department of workforce development designated by the  
13 director of the department.

14 d. A representative of the association of business and  
15 industry, appointed by the president of the association.

16 e. A member of a statewide labor organization appointed by  
17 the president of the organization.

18 f. Two representatives of organizations whose objectives  
19 include the elimination of pay disparities between men and  
20 women and minorities and nonminorities and that have undertaken  
21 advocacy, educational, or legislative initiatives in pursuit  
22 of such objectives appointed by the director of the civil  
23 rights commission in consultation with the leadership of those  
24 organizations.

25 g. Two representatives of postsecondary education  
26 institutions who have experience and expertise in the  
27 collection and analysis of data concerning pay disparities  
28 between men and women and minorities and nonminorities  
29 and whose research has been used in efforts to promote the  
30 elimination of such disparities appointed by the director of  
31 the civil rights commission in consultation with the leadership  
32 of those institutions.

33 h. Four members of the general assembly serving as  
34 ex officio, nonvoting members, one representative to be  
35 appointed by the speaker of the house of representatives, one

1 representative to be appointed by the minority leader of the  
2 house of representatives, one senator to be appointed by the  
3 majority leader of the senate, and one senator to be appointed  
4 by the minority leader of the senate.

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

6 a. The extent of wage disparities, both in the public and  
7 private sectors, between men and women and between minorities  
8 and nonminorities.

9 b. Factors that cause, or which tend to cause, such  
10 disparities, including segregation between women and  
11 men and between minorities and nonminorities across and  
12 within occupations, payment of lower wages for work in  
13 female-dominated occupations, child-rearing responsibilities,  
14 the number of women who are heads of households, education,  
15 hours worked, and years on the job.

16 c. The consequences of such disparities on the economy and  
17 affected families.

18 d. Actions likely to lead to the elimination and prevention  
19 of such disparities.

20 3. The civil rights commission shall provide staffing  
21 services for the task force.

22 4. The voting members shall elect a chairperson from the  
23 voting membership of the task force. A majority of the voting  
24 members of the task force constitutes a quorum.

25 5. Voting members of the task force shall receive  
26 reimbursement for actual expenses incurred while serving  
27 in their official capacity only if they are not eligible  
28 for reimbursement by the organization that they represent.  
29 Legislative members shall be paid the per diem and expenses  
30 specified in section 2.10.

31 6. The task force shall submit a report regarding its  
32 findings and its recommendations regarding potential actions  
33 for the elimination and prevention of disparities in wages  
34 between men and women and minorities and nonminorities to the  
35 governor and the general assembly no later than December 22,

1 2017.

2

EXPLANATION

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

4

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This bill relates to wage discrimination under Iowa Code  
6 chapter 216, the Iowa civil rights Act of 1965, and establishes  
7 an equal pay task force.

8

WAGE DISCRIMINATION IN EMPLOYMENT. The bill establishes  
9 additional unfair or discriminatory practices relating to wages  
10 under Code section 216.6A. Penalty and remedial provisions  
11 for discriminatory employment practices, including penalties  
12 specific to wage discrimination, are applicable under Code  
13 chapter 216 to violations of these requirements.

14

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

26

The bill prohibits an employer from seeking salary history  
27 information from a potential employee as a condition of a job  
28 interview or employment. This provision shall not be construed  
29 to prohibit a prospective employer from asking a prospective  
30 employee what salary level the prospective employee would  
31 require in order to accept a job.

32

The bill prohibits an employer from releasing the salary  
33 history of any current or former employee to any prospective  
34 employer in response to a request as part of an interview or  
35 hiring process without written authorization from such current

1 or former employee.

2 The bill prohibits an employer from publishing, listing, or  
3 posting within the employer's organization, with any employment  
4 agency, job-listing service, or internet site, or in any other  
5 public manner, an advertisement to recruit candidates for  
6 hire or independent contractors to fill a position within the  
7 employer's organization without including the minimum rate of  
8 pay of the position. The rate of pay shall include overtime  
9 and allowances, if any, claimed as part of the minimum wage,  
10 including but not limited to tipped wages. The bill prohibits  
11 an employer from paying a newly hired employee at less than the  
12 rate of pay advertised for the employee's position.

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

32 The bill provides that affirmative defenses to a claim under  
33 Code section 216.6A are not applicable unless one or more of  
34 the defenses account for the entire pay differential that is  
35 the subject of the claim.

1     EQUAL PAY TASK FORCE. The bill creates an equal pay task  
2 force to study the extent of discriminatory wage disparities  
3 in the public and private sectors, the factors that cause  
4 such disparities, the consequences of such disparities, and  
5 actions likely to lead to the elimination and prevention of  
6 such disparities.

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

11    The task force shall submit a report regarding its findings  
12 and its recommendations regarding potential actions for the  
13 elimination and prevention of discriminatory wage disparities  
14 to the governor and the general assembly no later than December  
15 22, 2017.