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S.B. 232
135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsors: Sens. Smith and Hicks-Hudson

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SUMMARY

- Creates the fair paycheck workplace certificate, which certifies that an employer compensated its female employees within 5% of the compensation paid to male employees during the previous calendar year.
- Requires the Director of Commerce to issue an employer a fair paycheck workplace certificate if specified requirements are met and specifies reasons the Director must deny a certificate.

DETAILED ANALYSIS

Fair paycheck workplace certificate

The bill allows an employer to obtain a fair paycheck workplace certificate from the Director of Commerce. A certificate signifies that less than a 5% difference exists between the average gross compensation an employer paid to its male and female employees during the preceding calendar year. An employer cannot claim to possess a certificate or otherwise indicate that the employer has a certificate unless the employer possesses an unexpired certificate.[1]

Application

An employer seeking a certificate under the bill must submit an application to the Director on a form the Director prescribes with the application fee the Director establishes by rule. If an employer is a business entity, the individual responsible for making decisions on behalf of the employer must sign the application.

An employer must include all of the following information in the application:

[1] R.C. 4145.02 and 4145.03.

- The employer's name and address;
- The total number of employees employed by the employer;
- The number of female and male employees employed by the employer;
- Payroll records from the preceding calendar year that show the gross amount of compensation (all money paid to an employee for services performed by the employee, including commissions, bonuses, and tips, but not fringe benefits) paid to each female and male employee;
- Any other information the Director determines is necessary to determine whether to issue a certificate.

Any data on individuals submitted to the Director in an application is confidential and is not a public record.[2]

Issuance and renewal

The Director must issue a certificate within 15 days after receiving an application if the Director determines, based on the information provided in the application, that less than a 5% difference exists between the average gross compensation the employer paid to its male employees and female employees during the calendar year preceding the year in which the employer applied for the certificate.

An initial certificate is valid for six months. An employer may renew a certificate by submitting an application and paying the required fee. Each renewed certificate expires one year after the date it was renewed.[3]

Denial and appeal

The Director must reject a certificate application only if one of the following applies:

- The employer does not include the required information in the application;
- The employer fails to pay the required fee; or
- The Director determines that the employer does not meet the compensation requirement described above.

If the Director rejects an application, the Director must issue a statement to the employer explaining the reason for the rejection within 15 days after receiving the application. An employer that is denied a certificate may appeal the denial in accordance with the Administrative Procedure Act.[4]

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[2] R.C. 4145.01(A), 4145.03(A), 4145.05, by reference to R.C. 149.43, not in the bill, and R.C. 4145.06.

[3] R.C. 4145.03.

[4] R.C. 4145.03; R.C. Chapter 119, not in the bill.

Database

The Director's decision to issue or not issue a certificate is a public record. The Director must establish and operate on the internet a database of employers who have been granted a certificate and include, for each employer, the employer's name and address and whether the employer's certificate is current or expired. The database is a public record open for inspection, and it must be searchable by the public.[5]

Administrative rules

The bill requires the Director to adopt rules to establish an application fee (the fee amount cannot exceed the amount necessary to administer the certificate program). The bill also allows the Director to adopt rules as the Director considers appropriate to implement the bill. Rules adopted under the bill are exempt from continuing law requirements concerning reductions in regulatory restrictions.[6] Under continuing law, the Director must take actions to reduce regulatory restrictions, including, by June 30, 2025, reducing the amount of regulatory restrictions contained in an inventory created in 2019 in accordance with a statutory schedule. A "regulatory restriction" is any part of an administrative rule that requires or prohibits an action.

Without the bill's exemption, the Director would be required to do both of the following with respect to any regulatory restrictions contained in rules adopted under the bill:

- Until June 30, 2025, and for so long as the Director fails to reach the reductions required under the statutory schedule, remove two or more existing regulatory restrictions for each new restriction adopted (referred to as the "two-for-one rule");
- Beginning July 1, 2025, refrain from adopting a regulatory restriction when doing so would cause the total number of regulatory restrictions in effect to exceed a statewide cap calculated by the Joint Committee on Agency Rule Review.[7]

HISTORY

Action	Date
Introduced	02-27-24

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[5] R.C. 4145.04, by reference to R.C. 149.43, not in the bill, and R.C. 4145.05.

[6] R.C. 4145.06.

[7] R.C. 121.95 to 121.953, not in the bill.